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# OLD TIME TRAGEDIES

THE SLAVIN MURDER.

IN ST. JOHN, N. H.

REDBURN THE SAILOR.

THE BOY WHO WAS HANGED.

THE TILTON MURDER.



COMPILED  
FROM THE MOST  
AUTHENTIC SOURCES.

ST. JOHN, N. H.

"PROGRESS" ELECTRIC PRINTING OFFICE



*New York*

Annals of the Provinces. No. 1.

1896

*From the Author*

# Old Time Tragedies.

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CELEBRATED CASES BEFORE THE  
COURTS IN ST. JOHN N. B

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INCLUDING :

THE MISPECK TRAGEDY; REDBURN THE SAILOR;  
BURGAN THE "BOY" BURGLAR; AND THE MURDER OF  
CLAYTON TILTON AT MUSQUASH.

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COMPILED FROM THE MOST AUTHENTIC SOURCES, AND NOW  
PUBLISHED IN FULL FOR THE FIRST TIME.

ST. JOHN, N. B.

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1895.



Entered according to Act of the Parliament of Canada, in the Year 1895, by  
**WILLIAM KILBY REYNOLDS,**  
at the Department of Agriculture

## INTRODUCTION.

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THE principal incidents dealt with in the following pages have already appeared in a series of papers contributed to St. John Progress over the signature of Roslynde. With these as a groundwork, a large amount of matter has been added, and many additional details given which are in some instances wholly new to the public, and of historic importance. This is especially true of the account of The Mispick Tragedy, the revision of which is many times the length of the original paper, and has required much time and careful research. Both on this case and that of Redburn, not only have the available contemporary records been consulted, but much that is now published for the first time has been obtained from living witnesses. In the famous case of Burgan, "the boy who was hanged," an effort has been made to correct some of the popular errors as to the position of Judge Chipman in the matter. In this case, too, a living witness has been found who had a personal acquaintance with Burgan himself. This version of the affair, differing so greatly as it does from the generally accepted accounts, is of special importance as a matter of local history.

It is, indeed, with the idea that these stories thus made complete will be of historic value, that I have ventured

#### INTRODUCTION.

to publish them in book form, and with some better motive than to simply give a recital of dreadful crimes. I have, therefore, made every effort to be accurate in the statement of details, and where there was any doubt have taken the trouble to fully investigate disputed points.

Among the many who have rendered valuable assistance, I have specially to thank Mr. George E. Fenety, Queen's Printer, for facilities to consult his files of the Morning News, and Mr. Clarence Ward, for valuable memoranda and suggestions.

W. KILBY REYNOLDS.

# THE MISPECK TRAGEDY.

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## I.

### THE STORY OF A GREAT CRIME.

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THE murder of Robert McKenzie and his family, at Mispeck Spring, near St. John, N. B., in the year 1857, is without a parallel in the records of crime in the Maritime Provinces of Canada. It was the brutal, wholesale slaughter of a man, his wife and their innocent children, by ignorant wretches whose sole motive was greed of gain. The horror which it caused in this part of the world at the time may well be imagined, and even at this day, nearly forty years after, it is frequently reverted to when the topic of talk is the shedding of human blood.

Until now, the story of the Mispeck Tragedy has never been fully told in connected form. Two pamphlets, giving reports of the trial, were published in 1857, one by Geo. W. Day, and the other in New York for "Barney" O'Brien, the well known bookseller of a generation ago. The first was made up from reports in the Leader newspaper, and the other from the reports in the Freeman. Both were got out in a hurry, and were necessarily incomplete and fragmentary in their style, apart from the mere transcript of evidence. These pamphlets are now very rare, and they have been only a part of the records which I have consulted in preparing this account. Other information has been had from

contemporary newspapers, and a great deal that has never before appeared in print has been gathered from men now living who had some knowledge of the events. In this way I have been enabled to compile a full account of the Mispick Tragedy, from the night of the murder, in 1857, to the time of the escape of the younger Slavin, in 1871.

On the Mispick road, about ten miles from St. John, may be seen today a deserted farm, some scattered brick and stone showing where had once stood the chimney of a dwelling. It is a lonely enough place, though not in a desolate part of the country, and the nearest house is about a mile away. There is good fishing in the neighborhood, Beaver Lake is near at hand, and one of the city clubs has its camp in the vicinity. All who go there for the first time in search of pleasure hear of the McKenzie murder, in more or less detail, but in the passage of events few can tell much beyond the outline of the story, and as memories are treacherous, even this is not always sure to be correct. Few of those who were active in the conviction of the murderers are alive today, and thus it will be recognized that now, while the testimony of the living is available, a record of the facts should be made.

In the house of which the ruins are now seen once lived Robert McKenzie, with his wife and four children. Of the latter the eldest was about five years, while the youngest was about one year old. McKenzie was a native of Scotland, but had been in this country a number of years, and was by occupation a master tailor. The maiden name of his wife was Effie Reed, daughter of Ishmael Reed, of Carleton, St. John. When in business in St. John, McKenzie's shop was in Bragg's building,

corner of King and Canterbury streets, a house famous for having been built by Benedict Arnold, and standing on the lot now occupied by John Vassie & Co. McKenzie sold out his business to A. & T. Gilmour, who continued at the stand for many years afterwards.

McKenzie had considerable money at one time. Some years before the tragedy he was believed to be worth over \$30,000, but he subsequently lost a good deal in various ventures outside of his trade. In 1851 he had a chair factory at Lower Mispeck, and he owned mills with some 2,000 acres of land. He did not succeed in the lumber business, however, and he subsequently sank more money in improving his farm. He built a house, about 50 feet long by 25 feet wide, on the farm in 1849. Here he was living with his family in the year 1857.

Apparently he lived there, lonely as it was, without fear of danger to himself or his property, for, though a man of slight physique, he seems to have taken no special precautions to protect his place, though he made no secret of the fact that he kept a considerable sum of money in the house. Most of the few people in that scattered neighborhood seemed to be ignorant, simple-minded folk, who lived as he did, at peace with the world. Among them was Patrick Slavin and his family, who occupied a humble dwelling seven or eight miles distant from the farm. Slavin was a laboring man, about 55 years of age, who had worked on the construction of the European and North American, now the Intercolonial railway, and at such other labor as offered from time to time. His eldest son, Pat, was 15 or 16 years old. Both of them were very ignorant, unable to read or write, and instruction in matters of religion was unknown in the household.



Among these people, however, there were all sorts of belief as to McKenzie's great wealth. One rumor had it that he was worth thirty thousand pounds. He was a money lender, too, and he appeared to take a pride in making a display of his hoard before those who had any transactions with him. It will thus be seen that he largely contributed to bring about his own dreadful fate, by exciting the cupidity of the wretchedly poor and ignorant people to whom gold seemed the the remedy for every ill.

In the latter part of October, 1857, McKenzie was desirous of securing a farm laborer. He had a spare house, smaller and older than his own, for a man to occupy, on the other side of the highway, nearly opposite the farm house, and about 90 yards distant. The wages he offered was a certain sum per acre for the work done. Such a man offered in the person of Hugh Breen—or Williams, as he was at first known—who had been working on the railway up to a month or so before, but who had more recently been living at the house of Slavin. McKenzie made an agreement with Breen, and the latter promised to bring his wife and family to occupy the small house across the road.

Up to this time McKenzie had been assisted in his work by a farm laborer named Polley, who had lived with his family in the small house. Polley had left the province and his place had been temporarily filled by a young man named George Leet, who lived alone in this house. Leet was to leave on the 24th of October and Breen was to take his place. On the day in question, which was a Saturday, McKenzie and Leet worked until dusk gathering up oats, two of the children playing in the field beside them as they labored. Having completed

what he had to do, Leet made a hasty supper of bread and cold tea left from the noonday repast, and went home to his father's house, about five miles distant. Had he remained, as was afterwards shown, he would have been one of the victims of the tragedy at a later hour.

Breen and Slavin had determined to murder McKenzie and his family, and that night had been fixed for the deed. They expected Leet would be away, but had he remained, as Slavin said, he would have been killed, "just because he was in the way." Breen, however, had already begun to live at the small house, sleeping with Leet, and was thus aware of his intention to go.

Breen was of a different stamp, physically, from Slavin, for while the latter was well advanced in years, short and stooping, though stout, Breen was about 28 years of age, tall and powerfully built. He had a clean cut face, with sharp nose and prominent mouth, and kept himself close shaved. His hair, being somewhat gray, made him appear slightly older than he really was. So far as can be judged, he was not the projector of this horrid enterprise, but was a man with murder in his heart, and a willing instrument of Slavin. It would seem that the latter had long coveted McKenzie's gold, but he and Breen had not met. When the two were thrown together, the combination furnished all the elements needed for the perpetration of a diabolical crime.

Breen came originally from near Oromocto. Before meeting with Slavin he had lived for a time in Fredericton, where he was employed as a man servant at Yerxa's hotel, known as the Drake House. While he was there, one of the boarders had a pocket book stolen from his room. It contained money and papers, and was found

in the back yard, a few days later, with the money gone. Breen was suspected, but nothing was done, as there was no direct evidence to prove that he was the thief.

In the basement of the Drake House was a variety shop kept by an elderly widow named Sally Golly, who was supposed to have accumulated a good deal of money, which she kept by her in preference to placing it in a bank. The reports of her wealth excited the cupidity of Breen; and after he left Fredericton and met Slavin, the two formed a plan to get the money. Having settled on the project the two went from St. John to Fredericton, in September, fully determined to rob and murder Sally Golly. They saw her several times, but found no good opportunity to execute their design, and returned to Mispick without accomplishing their purpose. Two months later, after the arrest and confession of the pair, the old woman learned for the first time how four fierce eyes had watched her movements, and how two men to whom mercy was an unknown virtue, had plotted to deprive her of her money and her life.

Later, when Sally Golly learned of her escape, she was so stricken with fear that for the rest of her life, which was not many years, she was afraid to take the shutters from her shop windows.

The greed of unlawful gain having been aroused, like the thirst for blood in merciless tigers, Slavin and Breen next discussed the chance for the robbery of a Mr. Corkery, who was known to be in the habit of carrying considerable money on his person when he travelled through the country buying cattle. Abandoning this they decided on the murder of McKenzie and his family. Old Slavin took the credit of this to himself, afterwards declaring that "it was myself was the head and founda-

tion and backsetting of robbing and murdering McKenzie." It was planned a week or two before it took place, and the date had been fixed for the night of Thursday, the 22nd of October. Learning that Leet expected his father and mother there that night, a postponement was made until Saturday, the 24th.

That evening, Breen, Slavin and the latter's son, Pat Slavin, started on their bloody mission. Young Slavin, in addition to being ignorant, was not considered mentally bright. He knew that something bad was to be done, and no doubt he knew there was to be murder. He was under his father's orders, however, and it is quite certain he did not realize the enormity of the crime which was to be committed, whatever part he may have taken in assisting in the slaughter.

The story of how the murder was committed was told afterwards both by Breen and old Slavin, the murderers and living witnesses. Their accounts agreed in the main facts, and were given without any hope of saving themselves. Dreadful enough their confessions were.

The oats had been gathered, the week's work was done, and McKenzie and his wife, unsuspecting of danger, were probably looking forward to a welcome rest on Sunday. At that season of the year the sun sets before five o'clock, and it was after twilight when McKenzie was seen alive for the last time by anyone except his murderers. About eight o'clock, or possibly a little later, a carriage from the city drove along that little frequented road. It contained two well known citizens of St. John. They stopped at the gate, and McKenzie, who was at the house, came down to the roadside, leaning his arms on the fence. The gentlemen in the carriage

talked with him for a few minutes, and continued on their way, afterwards returning to the city by another road. While they were talking with him they could see, by the light from the farmhouse, Mrs. McKenzie and some of the children standing in the doorway. Perhaps, even then, the eyes of the murderers were fixed upon their intended victims, waiting until not a chance remained of any interference with their fearful project. McKenzie's nearest neighbor lived a mile away, while in the other direction the nearest house was more than two miles distant. The spot was a fit one for the commission of a crime without risk of interruption.

After the carriage drove away, McKenzie returned to his house. Shortly after this Slavin, Breen and young Slavin, arrived at the small house, on the opposite side of the road, and began their preparations for the murder. Breen had an axe and made a fire on the hearth. He was preparing to cut up more dry wood when old Slavin stopped him. "Don't make any light;" he said, "the more light you make the worse." Then old Slavin took the axe and went into one of the rooms, shutting the door after him. Young Slavin also concealed himself, and Breen went over to the dwelling house to lure McKenzie to his doom.

McKenzie, wholly unsuspecting of danger, greeted the man he was expecting, and readily accompanied him, supposing that Breen wished to complete the arrangements for the accommodation of his wife and family. They reached the small house.

"Is she coming?" McKenzie asked, referring to Breen's wife.

"She is," was the reply.

"Is she near at hand?"

"Well, she is pretty near."

Slavin and hisson were in the next room, but McKenzie was ignorant of their presence. Slavin had an axe in his hand. Opening the door, he came out with the axe behind his back, and said, "she's on hand." The next instant he lifted the axe and kit McKenzie on the breast. McKenzie fell to the floor.

"Wherever I hit, a dead dog will tell no tales," remarked the murderer.

McKenzie was not quite dead, however, and uttered a groan. Then Slavin hit him blow after blow on the breast until life was extinct. Then they put the body down a trap-door in the cellar, having first thoroughly searched the clothing in the hope of finding money and other articles of value.

They remained at the small house for some time, and after a while old Slavin decided that it would be better not to leave the body in the cellar, as if left in the kitchen it would be more likely to be consumed when the building was burned. Raising the trap door he went down alone, and tried to take the body up the steps, but found the task a difficult one. "Will you help me to take him up again?" he called to Breen, and the two brought up the body, which they left lying on the floor.

Immediately after the killing of McKenzie, young Slavin had secured the key of an iron chest in which the murdered man had kept his money. One version is that it fell from a pocket to the floor, and another that the boy searched the pockets until he found it. After depositing the body on the floor, the three made their way to McKenzie's dwelling, to complete their work of blood by the slaughter of the helpless family. Reaching the house, Breen found an axe outside the porch, which he



handed to Slavin. Then Breen opened the door of the common sitting room where Mrs. McKenzie and her children were. She was not surprised to see Breen, supposing, no doubt, that her husband was behind him. Instead of that husband, there stood there, unseen by her, his murderer, Slavin, the axe hidden behind his back, while he peered through the doorway and prepared to begin the slaughter.

The picture presented by the room and its occupants was such as has cheered the heart of many a traveller along a country road after dusk. The bright light of the cheerful fire showed a mother and her family, their household duties for the week completed, making ready for the hours of rest which were to usher in another peaceful Sunday. Mrs. McKenzie was sitting in a rocking chair near the fire, singing a gentle lullaby to soothe the infant in her arms. The other three children were around her, whiling away the time in innocent prattle. It was a sight to move the hardest heart, but the cruel eyes that were watching the group were of men who knew no pity.

"Is she near at hand?" asked the woman, as her husband had done, referring to Breen's wife.

"Yes, she is pretty near," was again the answer.

Turning her attention to the infant again, she did not see the savage, determined face of Slavin as he pushed quickly into the room and stepped behind her. Without a moment's hesitation, he swung the axe and hit her a fearful blow on the side of the head. The child dropped from her arms to the hearth, and she lay on the floor struggling and moaning in the agonies of death. The children gathered around her and began to cry, but made no attempt to run away, with the exception of the

eldest, who, it is believed, fled into a small room, or pantry, and was murdered there. One after another, in rapid succession, they fell under the murderer's axe, and then Slavin struck the mother blow after blow—as many as fifteen, he confessed, until not a trace of life remained. "She died hard," the old wretch stolidly remarked in his subsequent confession. All this time Breen stood outside the door. Just where young Slavin was, and what share he had in the butchery, will never be known. According to the story of the others, he did nothing, but on this point there were many who had grave doubts.

When the murder was completed the three looked at the clock, but so ignorant were they, even in this simple matter, that only young Slavin could ascertain the time. He told them that the hour was half-past nine. The three then left the house and went to the woods near at hand, where they sat down and talked about what they had done. After a while they came up to the house and heard what they took to be moans of some of the dying children. They went back to the woods and remained some time longer. When they returned to the house all was silent.

Young Slavin began to complain of being hungry, and the three went into the pantry where they ate some bread and drank milk, returning to the woods again. Coming back, they began to search for McKenzie's money, the boy holding a light and otherwise assisting. In the iron chest they found a purse containing about one hundred pounds in gold. They had expected to get more, but after ransacking the house they concluded there was no more money to be had. They, however, secured a gold watch and some articles of clothing, after

which they began to try to conceal the evidences of their crime. Going to the small house, a candle was applied to a straw bed, by young Slavin, and there was soon a fierce blaze. Leaving the place to burn, they went to the upper house, built a pile of straw and wood in the porch and ignited it. They waited about five minutes, to make sure that the building was certain to burn, when they left the premises and returned to Slavin's house. There Slavin counted his share of the money and found he had fifty sovereigns.

At the McKenzie farm the fire made rapid headway. In a short time both houses were wholly consumed, and in the ashes were the remains of the six murdered ones, charred and burned beyond recognition, and in the case of the smaller children as completely reduced to ashes as the wood which had been their funeral pile.

A small red and white dog wandered around the fields, howling mournfully in terror of the desolation it had seen. It was, apart from the murderers, the only living witness of the tragedy, and a witness in truth it was. It had come into the room after the murderers had done their work, and on its side was a stain—the stain of human blood.

Many in St. John saw to the eastward that night a bright reflection in the sky. "It is some poor man's house or barn, I suppose," said a policeman on King Square, in answer to the question of a passer by. None could dream that the light told the story of the darkest tragedy in the history of the country.

## II.

## DISCOVERY AND DETECTION.

When daylight came on Sunday morning, the 25th of October, only the ashes remained of the two houses in which six human beings had so foully been put to death. The murderers believed that the fire would obliterate the traces of their crime, and it was with this idea that they had taken McKenzie's body from the cellar and dragged it into a room where it was more likely to be consumed. It must be remembered that they were ignorant as well as brutal, and they probably thought there was little chance of the murder being traced to them, otherwise they would have made an attempt to get out of the country. It would not have been a difficult undertaking in 1857. Only the principal towns had telegraph offices, and only a small beginning had been made in railways. By avoiding the settlements the men could have got out of the province, as nearly a week elapsed before an attempt was made to arrest them.

Nobody had seen the light of the burning houses, nor was there a suspicion that anything had occurred until about eleven o'clock on Sunday morning. At that hour Peter O'Hare, the nearest neighbor, who lived a mile beyond the farm, went to talk with McKenzie about some work which was to be done. On reaching the place, he was astonished to find both houses burned to the ground. He supposed the fire had been accidental and that the family had gone to some other house. He made no examination of the premises, but returned home and told his wife. She seems to have had a suspicion that something was wrong, for she told her husband to get somebody to go with him and find out where the

McKenzies were He accordingly sought James Robinson, who lived a mile from the farm, in the direction of the city, and together they returned to investigate the affair.

The site of the dwelling house was on the south side of the road, while that of the small house was on the north side, about 90 yards distant. In front of the dwelling, and on a line between the two houses, was a barn, and in the rear of the dwelling was another barn, neither of which had been burned. There had been little or no wind during the night. It was plain that neither house had caught fire from the other. This was the first circumstance to excite suspicion.

O'Hare and Robinson then made a superficial examination of the ruins of the dwelling house, and found the empty iron money chest with the door open and the key in the lock. This convinced them that there had been at least a robbery. They at once made their way to the house of the nearest magistrate, Wm. Hawkes, six miles distant. It was then between 3 and 4 in the afternoon.

Mr. Hawkes and the others went at once to the McKenzies', and fearing that the family had been burned in their beds, began to search about the ruins. James Peacock and his son, a lad of 15, had joined them, and the former thought, by the strange sickening odor he smelled, there was a body under the ruins of the kitchen chimney, which had fallen. On removing a portion of the bricks, they were horrified to discover what they supposed to be the remains of Mrs. McKenzie, though so much of the body had been burned that this was merely conjecture. There were the shoulder bones, part of the ribs and backbone, but very little flesh, except some of the internal organs. Close by were the remains

of a child, which the finders lifted on a dung fork with which they had been digging. Both these and the remains of Mrs. McKenzie were so much reduced that the iron money chest sufficed to contain them. A portion of the body of another child was found at a later date, leaving two unaccounted for. It was believed at the time that these two had been wholly consumed. A year or two afterwards, the removal of the remainder of the bricks disclosed part of a skeleton, believed to be that of the eldest girl, who had fled to the pantry and been killed there.

Soon after the discovery of the remains of Mrs. McKenzie, young Peacock, who had been searching in the ruins of the small house, found what at first appeared to be a charred log, but which proved to be the trunk of a man, the head, arms and legs being missing. Some metal coat buttons and suspender buckles left no doubt that the remains were those of McKenzie.

By the time these discoveries had been made, evening had come, and the parties returned to their homes. No word was sent to the city until Monday morning, when Mr. Hawkes, with George Leet and James Robinson, drove in and notified the authorities of what had happened.

Among those of the country folks who gathered at the ruins on Monday morning was John Leet, father of the young man already mentioned. He noticed that McKenzie's small red and white dog had a smear on its side. A closer examination showed him and the others that the mark was the stain of blood. There was no wound on the dog. The blood was that of some of the murdered family.

George Scoullar was at that time chief of the St. John



police, and George Stockford was high constable. To these was delegated the duty of getting at the evidence of the tragedy and of finding the murderers. Captain Scoullar's suspicions were first directed towards the Slavins from the fact that the old man and his son had disappeared. He therefore secured Mrs. Slavin and John Slavin, a lad of 12, as witnesses for the inquest.

The inquest began at Mispick on Tuesday, and was held by Dr. Wm. Bayard, coroner. Mrs. Slavin, who was a tall, thin woman, of common appearance, gave her evidence with great reluctance, hesitating at times as if afraid of the consequences of her words. On some points it was only by sharp and persistent questioning that she could be compelled to give answers in any way satisfactory. Her manner, of itself, left no doubt that she had more knowledge of the crime than she was willing to disclose. She said that a man named Breen, or Green, had been staying at their house, remaining there, altogether, about fifteen nights, but that he had not been there for ten days until the previous Sunday morning, when he came for a shirt he had left there to be washed. On that occasion he said he had walked from the city, and did not look soiled or have any trace of blood on his clothes. He said nothing of any fire at McKenzie's, or of a murder, and after breakfast he went away, saying he was going to Boston or Woodstock. She had seen nothing of him afterwards, and swore positively that he had not been at the house during the preceding week. She had come to the city on Monday, leaving her family at home, and she did not know what had become of her husband and Pat. She knew nothing of their whereabouts, or of the fire and the fate of the McKenzie family. When closely pressed on this point

she began to cry, and while thus agitated her second son was brought into the room. On seeing him she broke down, and as she was being taken out she exclaimed: "Oh! Johnny, Johnny, you won't hang your poor father!"

Johnny, unlike his brother, was a bright, quick-witted boy. On the previous Monday, he had told Captain Secullar that his name was Dunn, having been told by his father to do so. When placed on the stand, at the inquest, he gave important evidence, quite at variance with the story told by his mother.

Breen, he said, had been at their house about five weeks, and was there every night, except Thursday of the previous week. On Saturday morning he heard Breen talking with his father and brother about McKenzie and the lots of money he had. After breakfast the three went away, saying they were going to the city, and did not return until after night. They had a bag about the size of a flour sack, and it appeared to contain clothing. They talked in whispers. His mother, who had been in bed, got up and prepared them some supper, before eating which they washed their hands. He saw a long purse in Breen's hands, and heard him say that it was heavy. He also saw Breen with a yellow watch without a chain, and heard him say they had a lot of money. The next morning Breen, old Slavin and Pat, went into the woods, about half a mile from the house, and made a camp. None of them returned to the house, and the only one he saw again was Pat.

On the following day Johnny was again put on the stand, and repeated the statement. Mrs. Slavin was also brought in again, and adhered to the story she had told. She stated, in answer to a question, that none of the

family had been in a place of worship for many years.

The next bit of evidence was from a man named David Hill, who stated that as he was passing near Slavin's house, on Sunday, he saw young Pat and John on the road playing with a piece of money. Pat asked him what it was, and he told him it was a sovereign ; whereupon Pat told him to take it and have a spree, saying he had more money than he had ever had. Hill declined, and told the boy he had no right to the money. Pat then asked him if he had heard that McKenzie's place had been burned. After Hill had gone a short distance he turned back and saw Pat take about five sovereigns out of his pocket.

When Johnny was again brought into court, he confirmed this statement, and said he had not told about it because he had not been asked. Being warned that he must tell the whole truth, he made the further statement that on Saturday night, when his father, brother and Breen came home, he sat up in bed and heard them speak of the murder and their booty, but insisted—probably to save his father—that Breen had killed them all. Pat held the candle and his father searched the house

The next development in the case was the arrest of Bernard Heagarty, senior, and Bernard Heagarty, junior, by Captain Scoullar, at the head of Loch Lomond, on suspicion of being accessories to the murder. They were respectively brother-in law and nephew to old Slavin. Young Heagarty, at the inquest, on Friday, deposed that he had last seen Breen and the two Slavins on the preceding morning, near his father's house. The three had come to the house very early on Tuesday morning, saying that McKenzie's house had been burned and the family murdered, and they wished to conceal

themselves, as they were afraid they would be suspected, though they were not guilty. They got their breakfast and stayed two hours, until sunrise. They seemed very anxious to get away and said they would go by the way of Sussex Vale to the Bend (now Moncton) and from there to the United States. Among other messages given him by Slavin was a commission to get a pair of trousers made. Heagarty saw the men later in the day at a rude camp, half a mile from the house, and took them some bread.

The tailor, McCallaghen, who cut the trousers, produced some pieces of the cloth left, and John D. Short, in the employ of A. & T. Gilmour, proved that McKenzie had purchased two remnants of just such cloth some time before.

The elder Heagarty confirmed the evidence of his son, as to the men having been at his house and being encamped in the woods.

On this evidence, the coroner's jury had no hesitation in bringing in a verdict of wilful murder against Hugh Breen, Patrick Slavin, senior, and Patrick Slavin, junior.

In the meantime, without waiting for the verdict a fresh effort was made to capture the missing men. Their whereabouts had been definitely located by the statement of young Heagarty, and on hearing this evidence, Capt. Scoullar, with policemen Dobson and Marshall, High Constable Stockford and others, at once started for Heagarty's house. Residents in the neighborhood joined in the pursuit, and young Heagarty, who was a nephew of Slavin, reluctantly acted as guide. "Dobson led the van," as a ballad on the tragedy used to tell, and they got within a few feet of the camp before the hunted men heard them. Breen and old Slavin rushed out and

were at once seized by Dobson and Scoullar. They were broken down by exposure and want of food, and made no attempt to resist. "I surrender," said Breen quietly. Young Slavin escaped at the back of the camp, and ran some distance, but stopped when told he or his father would be shot if he did not come back. His father also called him to return. He there-upon surrendered.

George Stockford and policeman Marshall arrived in town with old Slavin about 8 o'clock that evening, just six days, almost to the hour, after the commission of the murder.

At a later hour, Scoullar and James Stockford brought in young Slavin, while Dobson and George Smith, of Beaver Lake, were in charge of Breen. The two latter prisoners had pointed out where some of the stolen goods were found, as well as gold to the amount of 89 sovereigns.

The prisoners were taken to the watch-house, near Market Square, and on the following day were taken to the police office, which was then on Prince William street, a little south of the bank of New Brunswick. So great was the curiosity to see the criminals that the number of people on the street between the two points was estimated to be upwards of three thousand. After a brief examination the prisoners were committed for trial, and as they were taken to jail a vast crowd surrounded and followed them, filling the street in front of the jail after the doors were closed upon the murderers. On that day and for some time afterwards there was a brisk demand at the hardware stores for revolvers and other weapons of defence, as the murder had created a feeling of insecurity among all who lived in lonely neigh-

hoods. Nor, indeed, were city householders free from the alarm consequent on the terrible tragedy. The spirit of the times was shown by one of the advertisements in the Morning News headed "Shoot the Animals" which stated that revolvers that would shoot half a dozen ruffians at a time were for sale at low prices. The excitement in the city and surrounding country was intense.



## III.

## TRIAL AND CONVICTION.

Judge Robert Parker presided at this circuit of the court. On Thursday, the fourth of November, the grand jury found true bills against the three prisoners, who were brought into court on the following day and arraigned on charge of the murder of Robert McKenzie and his family. Breen was the most broken down, and many were of the belief that he was the most guilty. There was an idea that old Slavin had been dragged into the affair by the younger and more murderous man, but this was a mistake, as the evidence proved later. Breen was prostrated because he was a coward when he found himself brought to an account for his fearful crime. As for young Slavin, it was difficult to decide whether he was reckless or really insensible of the enormity of the offence with which he was charged. His manner was as careless as if he had merely been detected in some boyish misdemeanor.

The indictment having been read, Breen was asked whether he pleaded guilty or not guilty.

"Guilty!" was the immediate reply

He was then warned that such a plea would put him in the same position as if he had been tried and convicted, and that if he so desired, he could withdraw what he had said, plead not guilty and have the benefit of a trial. He declined to do so.

When old Slavin was asked to plead, he seemed in doubt what to say, and after wriggling about for some little time he replied, "I could not say that I am clear of it."

The court explained to him that these words were not sufficient, and that he must plead either one way or the

other. No other reply could be got from him, however, and a plea of not guilty was accordingly entered for him. He said he did not want any counsel.

Pat Slavin pleaded not guilty, and the court assigned Messrs. D. S. Kerr and A. R. Wetmore as counsel to defend him. Some idea of the popular feeling may be gathered from the fact that some people who met Mr. Kerr later in the day, not understanding that he had been assigned by the court, but supposing the prisoners had employed him, threatened him with the vengeance of the public should he succeed in getting the guilty men clear.

Tuesday, the 10th, was appointed as the day for the trial of the Slavins. On Monday, the old man was arraigned on two indictments, one charging him with the murder of Effie McKenzie, and the other with the murder of a male child, name unknown, offspring of Robert and Effie McKenzie.

When Slavin was brought into court and placed in the dock his face had a strange, fixed look, as though his eyes saw nothing of what was around him. His grey hairs might, under some circumstances, have excited compassion, and even up to this time there were some who believed he might be less guilty than Breen. A portion of his countenance was not bad looking. He had, indeed, a low forehead and overhanging eye brows which gave him a somewhat sinister look, but he had in compensation clear blue eyes and a well shaped nose. The lower part of his face however was of the brutal animal class. At a later date when on the stand he at one time put up his hand in such a way as to conceal his mouth and chin, and many were favorably impressed by his appearance for the moment. The impression was speedily dissipated when the hand was removed and

the whole face shown. Perhaps a very correct estimate was that formed by the editor of a city paper who was asked by a friend what opinion he had formed from Slavin's looks. "I should say," was the reply, "that if that man was working on the railway for a dollar a day and anybody offered him a dollar and a half to murder a man, he would take the dollar and a half."

The clerk of the court having read the indictment charging him with the murder of Mrs. McKenzie, all expected to hear the prisoner plead not guilty, for he had an obstinate look, which gave one an idea that he would resist to the last. When asked whether he was guilty or not guilty, his face flushed, he hesitated a moment, and in a clear strong voice he replied, "Guilty!"

This occasioned great surprise and the judge, thinking the old man might not have comprehended the meaning of the question, asked him if he understood what had been said to him. "I do," was the reply. "I am guilty."

"Do you understand the nature of this plea and its consequences, and that it will put you in the same position as if you had been tried by a jury and found guilty?" continued the judge.

"I understand it, and I am guilty," answered Slavin.

"Shall I direct the plea of guilty to be recorded?" asked the judge. The prisoner did not appear to understand this question, and made no reply.

"I ask you, shall I direct the plea of guilty to be entered?" repeated the judge in a very distinct tone.

"I am guilty! That is all I have to say about it, and I'm satisfied to die for it; I'm reconciled," was Slavin's response.

To the second indictment, charging him with the

murder of the child, he said, "I'm guilty—this was the only one I done by myself."

This left only young Slavin to be tried, and his trial began the following day, Tuesday, the 10th. An immense crowd had gathered around the court house, and the outside steps were broken down in the rush that followed the opening of the doors. Both court room and corridors were speedily packed with people, and it was some time before the sheriff and constables could enforce even a semblance of order. Hundreds who could not get into the building got on the rocks between it and the jail, climbed the fences and secured other positions where they could see the prisoner as he passed.

Judge Parker presided, and the trial occupied three days. The prosecution was conducted by Hon. Charles Fisher, attorney-general, and Hon. Charles Watters, solicitor-general, while Messrs. Kerr and Wetmore appeared on behalf of the prisoner. The jury was sworn in as follows: John Thomas, foreman; Edward T. Knowles, John H. Foster, G. Rogers, John Dever, Charles E. Burnham, Henry Travis, Thomas L. Taylor, David Merritt, Thomas H. Ellison, Simon Nealis, William H. Tyson.

The solicitor-general, in his opening for the prosecution, pointed out the admitted fact of the murders, and held that the three were associated together and equally guilty. "My learned colleague and I have now to do our duty towards the public; you, as jurors, have also your duty to perform," he continued. "Strong appeals will be made to you by the counsel for the prisoner, because his life is in your hands, and his fate depends upon your verdict. Yet, while knowing and realizing your responsibility in this respect, you must also remember

that, in the holding of the scales of justice, multitudes of lives are in your hands ; and that if the majesty of the law is not vindicated there must be an end to personal security in this province."

The witnesses for the crown were William Reed, John Robinson, John Leet, William Hawkes, Jane Robinson, Peter O'Hare, James Robinson, Coroner Bayard, George Knox, David Ramsay, James Hill, Robert Pengilly, James Peacock, John Knox, Ann Jane Knox, Thomas McGuire, Patrick Hanlon, John Slavin, John Heagarty, Bernard Heagarty, Mary Carrol, Rosana Carrol, Mrs. Carrol, John D. Short, Archibald Rowan, William Arthur, Jacob Arthur, George Scoullar, Thomas Dobson, William Ross, George Smith, James Stockford and Hugh Breen. The evidence of most of these related to the finding of the remains and the subsequent proceedings, followed by the arrest of the prisoners. All that they had to say has been told in connected form earlier in this narrative.

Young John Slavin repeated more in detail the story he had told at the inquest, and the moral condition of the family was shown by such statements as these : "I cannot read ; Pat cannot read. I have never been at church. Never knew father or Pat to be at church ; mother never went. We all stayed home. We played away our time just. \* \* \* Have learned the Lord's prayer ; my mother taught me. I have forgotten it."

The evidence of George Scouller, in addition to detailing the capture of the prisoners, gave a statement made by young Pat Slavin, immediately after the arrest. "I told the prisoner at the bar that I was chief of police, and warned him in the usual manner that what he said must be voluntary and without solicitation on my part.

He then stated that Breen had got himself and father into the difficulty. He had been working on the railroad, and lived about his father's house, off and on, for some weeks. That some time before the burning took place, he and Breen had been out to McKenzie's once or twice ; that he had been in at McKenzie's house asking for water, and that he was induced to do so by Breen. The Saturday before the burning, he and his father had been digging potatoes for Knox. After they had dug some time, Breen came up and took the spade out of his hand ; he, prisoner, went home. After he was home some time, Breen came in after him. Breen proposed to go out to McKenzie's that night ; he went with him. On the way out Breen told him it was to rob McKenzie's. He went out, and in view of McKenzie's house Breen left him at the top of the hill to keep watch. Afterwards Breen went down to McKenzie's house. Breen called at the house McKenzie lived in, went with McKenzie to the lower house and went into the house with a light. After a short time Breen came out alone, and went back to the dwelling house. He (Breen) then went into the house, and after a short time prisoner heard loud cries and screaming, and he heard something like a dog crying and howling. In an hour, or hour and a half, all was quiet." \* \* \* "I asked the boy," continued the witness, "if he was aware murder would be committed before he went out ; he said he knew that the robbery was planned weeks before at his father's, but he was not aware murder would be done till he heard the screams. He then said his father had nothing to do with the killing, that Breen had done the whole of it."

An extraordinary witness was Hugh Breen, who was

already convicted by his plea of guilty, and had nothing to gain or lose by what he should say. His account of the tragedy was in substance as has already been given. He averred that young Slavin had been "keen" to accompany them ; that he was in the dwelling house, but had no hand in the murder ; the old man did all. After the murder was over, "we went to the yew trees below the house, sat a little while and came up again ; heard some of the children moaning or something. Went back to the woods, stopped another time and came up again. Prisoner was feeling hungry, got some bread in the house, and went into the pantry and got some milk. Pat had the key belonging to the money ; he took it out of McKenzie's pocket. Old Slavin went with the axe in his hand inside, and said, 'If any one comes along, slay them, and we will go inside.' He and his son went in. I thought I heard the iron chest opening. They found some money in it. They got the money, and we went down to the edge of the woods and sat a little longer. That was about eleven and a half o'clock. We came up again, and Slavin said it was better to put a coal in the lower house first, as people might think the house took fire and they were all burned alive. His son got some matches in one of the rooms, and got a candle and lit it. \* \* \* The son said it was better to put a coal in this, (the straw bed in the lower house) and McKenzie was lying alongside of the straw when it was lit. We got a coal, set a candle to the straw, and that was all that was wanted."

Breen's evidence closed the case for the crown, and Mr. Wetmore opened the case for the prisoner with a lengthy and forcible address. He severely commented on the calling of Breen as a witness, pronouncing his

statements to be untrustworthy, and stated that the jury would have to decide whether Breen or Slavin was to be believed, as the old man would be put on the stand.

The first point to which he would call attention in regard to young Slavin was his age. He contended that he was not yet responsible for his acts, that he did not possess the ordinary intelligence becoming his years, and could not appreciate the enormity of the offence charged against him. Another ground of defence was that the prisoner did not go to McKenzie's to commit murder, but went at his father's command, understanding that they were to perpetrate robbery only. Murder was done without the boy being a party to it. Three offences had been committed — murder, arson and burglary; and if the prisoner were acquitted on the graver charge he could be indicted for either of the other two. Finally, the condition of the boy's mind was to be considered. The jury should consider the levity of his description of these horrible crimes, when he was arrested; his vacant laughter; his carelessness of the commission of wrong, and his evident ignorance of the consequences of crime. Either the prisoner was not sane at the time the offence had been committed, and not in a position to have been responsible, or his reason had been affected by these horrors. If the jury arrived at either of these conclusions, they would acquit him.

The court room was crowded in every part when Patrick Slavin senior was brought in to give his testimony, and the corridors of the court house were packed by an eager mass of humanity. Even the ledges of the windows were occupied by those who felt fortunate in securing such positions. There was no available foot of standing room that was not occupied, and yet so intense



was the desire to hear every word that perfect order was maintained by the vast crowd. Now and then, it is true, a murmur of horror would arise at some remark made by the witness, and the crier would shout "Silence in the court!" adding in an audible undertone, "Oh, the villain!" or some other remark expressive of the common sentiment.

The story told by the elder Slavin was, in many respects, the most extraordinary evidence ever heard in any court in the land. This was not alone because of the revelations, but by reason of the stolid, nonchalant way in which the chief criminal in a most fearful butchery told what he had done. There were times when the judge, trembling with emotion, paused in his work of taking notes to gaze at the man in wonder and horror. So excited was the judge that time and again, forgetting that the witness was already condemned beyond hope of mercy in this world, he cautioned him against criminating himself.

Once when Slavin, in telling of setting the fire, used the term "put a coal til it." The judge, not understanding, made him repeat the phrase, and then said, "You mean you set it on fire, do you?" "Same thing, same thing," replied Slavin in the most matter-of-fact and indifferent way. So it was throughout his entire testimony. His face, with its dull, brutal expression, never changed, and he answered the questions as if he were being interrogated on some common occurrence in which he felt very little concern. He gave no indication of repentance, and, apart from the prisoner, he seemed to be the only person present who was unmoved by the horrible recital.

His evidence is here given as completely as it can be made after a comparison of different reports. In answer to Mr. Wetmore, he said:

"I am willing to tell the whole truth. I am the father of this boy. He is between fifteen and sixteen years of age, as near as I can guess. I cannot read or write. I have not been in the habit of attending public worship; it is more than a few weeks since I was in a place of worship. I could not say when I was there; I don't know as I have been in such a place half a dozen times in the last half a dozen years. I have never been in the habit of teaching the boy his prayers; think he knows nothing about them and never learned them. The boy is not of a bad disposition. He is of tender feelings; I wish I had as tender, and I would be all right now.

"I first knew Breen when we worked on the railway; I left it soon after, and he left about the same time. I recollect being at Fredericton six weeks or two months ago. It was partly Breen who proposed going there. I was never there before, and knew no one there. Saw a woman there called Sally Golly. I went there at Breen's suggestion; we went for no good purpose; we went to rob Sally Golly if we got any good chance. That was our principal business; Breen suggested it. We talked of murdering Sally Golly, but did not come to our purpose; I don't doubt if I had got the opportunity I would have put her through. We got one opportunity, but it was risky; we got others, but they were all the same. It was Breen suggested it, and I did not fail him a bit. If we had got a good chance, and it was necessary to murder her, she would have had a bad chance. Not succeeding in getting a chance we came back.

"It was myself was the head, and foundation and backsetting, of robbing and murdering McKenzie, and

Breen did not fail me any ; he was no backout. I said to him I thought we could make it do. I told him McKenzie was reported to have a good deal of money. He was willing to go. It was after we returned from Fredericton that we laid the plan. We came down from Fredericton by the road, and we talked about robbing McKenzie pretty much all along. I had no intention of any other robbery. Breen often talked of Squire Sharkey, but not in the way of robbing him. He told me Mr. Corkery was a man who often carried a great deal of money, and could be robbed. I never saw him until the other day ; don't know as I would have robbed him.

"When we returned from Fredericton, Breen stopped at my place. We talked often of robbing McKenzie. Polley was living in McKenzie's house. I knew Polley well, and we put off the robbery because we did not want to injure him. We knew that he was going to leave ; if he had not left, I don't know that I would have attempted the robbery. James Goiding, Polley's brother-in-law, owed me five pounds. I heard he was going to leave the country with Polley, and I got a capias from Squire Sharkey to catch him when he came down. My wife went up to buy some things of Polley, and to find out about Goiding. I never knew of Leet until I went to McKenzie's with Breen and found him there. I tried to find out from Leet when he was going to leave, because there would be less trouble when he was away, and I did not want to have anything to do with him. Breen knew all this. Breen stopped a night with Leet, as much to find out when he was going to leave as anything else. Breen heard from Leet that he expected his father and mother there on Thursday night,

and it was this helped to prevent our robbing McKenzie on Thursday night. I guess that kept the murder back that time. If he was in the way I think I would have killed him just because he was in the way. He would have had a bad chance. It would have been against my own will, but I would have done it.

"Saturday night we went to McKenzie's. I did not tell my son we were going to commit murder; he could not know my mind. Don't know that when going to McKenzie's on Saturday night I asked the others to stand to my back; I don't allow I did, as I did not want any-one; I was able to put it through myself. When we got to the place, Breen made a fire in the lower house. I was not in when he made it; went in after it was made. I did not put the fire out or cause Breen to put it out; we wanted to keep it going. My son was there. Breen went for McKenzie; I guess I told him to go; he was willing enough. I had no intention but to take his life. I was standing by the fire and had my axe. I heard them coming down. I guess my son was in and out; should not wonder but he was in the house at the time. He might have been in the kitchen. I was in the bedroom. He might be in with me; it was dark; was not observing him particularly. I did not tell my son at that time I was going to murder McKenzie. Should not wonder but he might suspect; did not tell him in particular.

"McKenzie and Breen came down, and he stood in the kitchen. I walked out of the bedroom, and I said nothing, but struck him on the breast. I was not in an up-stairs room, but one on the same tier. I struck him with the poll of the axe. He fell. That blow did not kill him exactly. I struck him five or six times on the

head and breast, and wherever it was handy. Breen was standing by, right on the floor. My son might be in the room when I struck McKenzie; he might be within two feet of me. Do not remember seeing him when I struck the blow. I saw him after McKenzie was killed. I expect he came in at that time, hearing the bustle. We stopped there no great time, not half an hour. I searched McKenzie's body; I did it; I searched all about him. We threw him into the cellar, not a quarter of an hour after we killed him; think the key dropped out of his pocket when we throw him in the cellar; I could not tell how, but the boy first got hold of the key.

"Breen and I went up together to the dwelling, to kill what was in it and rob the house. I went in first; Breen showed me the way, for I never was in before. I did not take the axe up with me; Breen gave me an axe that was standing at the door; he put it in my hand.

"There was a bright light. I saw Mrs. McKenzie sitting on a rocking chair with a child in her arms; there were four children altogether. When I went in I did not speak, but just struck her on the side of the head, by the ear, with the axe. She struggled a good deal. She died very hard. I think the child was killed in striking at the mother. The children screamed and cried a little; they did not run away, but kept about the mother. I killed them with my own hand. I killed the whole of them.

"Breen was in and out and in and out. We searched the house and got about a hundred pounds in money, all in gold; I ransacked the chest; we found no notes. The gold was in a purse, all together. There was no

money in the beaded purse, nor in the portemonie, but in the yellow cotton purse. The way of the boy was knocking about backward and forward ; took him only to keep watch if any one was coming. That was all I took him for. After the murder took some victuals, and went out and had something to eat ; I forget who took it out. Breen and I considered it was best to set fire to the houses, so that no one could tell what had happened. The lower one was set fire first. I guess we did it in partnership. I guess we both set the other on fire. The boy was about with us at the time, but it was Breen and I in particular who set fire. The boy would do nothing but as I would let him. We left it burning ; we did not go away until we were sure it would go. We then went homeward. It is about seven or eight miles.

"They were partly lying down (at his home). My wife opened the door and let us in. She might have had some idea of what we were going for, but we did not tell her what we were going to do. She would not approve of it. We had some supper. Money was produced by me that night, and put on the table. I counted it. My wife was by. I did not say plainly what I had done ; said as much as that we put things through. She did not want to know about it. The money was set by in the house. The old woman got hold of it and hid it out of the house entirely. The next day, Sunday morning, I heard some of them say the boy had money. I told Johnny to watch him, and he told me the prisoner had some. When I asked it of him he at first rather denied it ; I thought he might have got it off the table when I was counting it overnight. I gave back the pocket-book to the boy, and the sovereigns in it. I think Breen got only three or four sover-

signs; he had no paper money; he got the purse a day or two after. He went to town Sunday afternoon. He had the long bead purse. Breen came into town, and we afterwards went into the woods.

"I have three boys. The eldest is about fifteen or sixteen; the second is about ten, and the third about seven or eight. I think my youngest child has as much sense as Pat; he could do no more than take money and throw it about the road. This boy (Pat) has not sense or reason for his age. It is as much as a bargain that he knows the difference of right and wrong on some points or knows the value of money. I beat him sometimes severe enough. I am very severe, cruelly severe when I begin at him. He could not have known my mind when we went to McKenzie's. The boy had no idea of perpetrating a murder. If he had refused to go, I would have made him go slick. I wanted him to keep watch. He knew that what I wanted I would have carried out; he knew that when I wanted him to do anything he should do it. He is a tender-hearted boy, and has not as much sense as a boy of his age should have.

"He went to the woods with us. From the time of the murder he did not look the same in my eye as he did before. I think it was the old woman who told them to take the things away out of the house when they hid them. I think the old woman took the things to the camp. When we went I do not know if the boy accompanied or followed us. I do not remember telling the boy to go with me when we went to the woods. My firm conviction is that the boy did not know I meant to murder, and that he is not quite capable to discern right from wrong.

"I know that sentence of death will be pronounced on me, and am quite satisfied to die, let the time be short or long. Knowing my doom I declare I have told the truth. I never laid out to make my escape. We had time enough if we liked to go, but we did not represent to go properly."

Cross-examined by the solicitor-general. "I did not send the children to church and did not teach them any prayers. I never saw the prisoner at a place of worship. I have known his mother to teach him his prayers, and have heard him saying them. She was inclined to teach him. Patrick might have heard me and Breen talking about the murder. I never told him particularly that when I wanted him to go he should go. He went with us on the Thursday night that Breen slept with Leet. We went that night to commit the robbery, if things had suited. He might have had his own opinion what we were going for. We told him nothing, but he might have heard us talking of it. I am perfect that he had an idea of what we were about; we were about going to murder the concern and rob them. We talked over this betwixt ourselves. My son might of heard a whiff of it. We did not let him hear the worst of things. On Thursday we left Breen there; my son and I returned together. I don't recollect if I had an axe that day; I rather think I had and brought it home again. I only fetched an axe there once and brought it home again. My son and I might have many talks on the way home; I do not recollect what talk we had. He might suspect that we did not accomplish our purpose because Leet was lumber in the way there. I can't say I told him that; I might have done so.

"I next saw Breen on Friday, when he came to Knox's,



where we were working. It was understood that we could go on Saturday night, as Leet would then be away. Breen told me this ; my son had gone home. It was on Saturday we arranged to go. I think Breen slept at my house Friday night. I can't say whether my son heard us talking of going back. I did not think it answered to let any one but ourselves know what was going on ; it would not be talked of in presence of my wife, as she would not approve of it.

"On Saturday evening I, my son and Breen, went from my house to McKenzie's ; we started pretty much together. On the way, of course, Breen and I talked of what we were going to do. I can't say that my son took any part in the conversation, and can't tell how near he was to us. Sometimes he was walking with us and sometimes behind us. Could not say if he knew our object. If he had been let alone I think he would as soon stay at home. He did not refuse to go ; it was no use.

"Breen was expected at McKenzie's that night, with his wife ; he trysted to be there. McKenzie did not expect me. Breen went forward first and kindled a fire. I kept out of sight, and I rather think my son did not show himself either ; I did not allow him. We were standing behind the house ; Breen came for us and I went in. I cannot say if my son went in ; I did not pay him much attention. There was a good light, and I should not wonder but I told Breen there was too much light, and told him to toss it up, and he did and made less light. I went into the room to be out of the way. I did not feel or see my son go into the room with me ; I can't say if he was in the room with me at the time, as I was not thinking of him. I don't think I closed

the door. I had an axe in my hand ; the axe was in the house ; I think Breen gave it to me. Breen went of his own election for McKenzie. I knew he was going for him ; he told me.

"They came down and came into the house. They were talking with their backs to the fire ; they were talking about Breen's wife. I rather think, when I came out, I said she was on hand, and then struck. Breen stood on one side to allow me liberty to strike the blow. I might have said dead dogs tell no tales, but I think I did not ; there was too great a bustle to notice passing words. After I struck McKenzie I saw my son on the floor, but I think he came in from outside at that time. We searched McKenzie's pockets ; was nothing in them I could find. The boy gave me the key. I rather think that in the tumbling over the key fell out. I did not know what key it was ; neither of us knew. I found no money in his pockets. I put my hand in every pocket, because it was said he always carried from a hundred to a hundred and fifty pounds about him. I have no doubt but my boy might have put his hands in the pockets ; can't say whether he did or not. I felt no weakness.

"We threw the body into the cellar ; it remained there until we came back from the upper house. I did not speak to my son at all ; gave him no directions to go with us to the upper house. Breen and I went pretty much together into the upper house. I rather think he stood back when I went in. We opened an inside door before we saw Mrs. McKenzie. The front door was opened ; we opened a door leading into a room. Breen stopped at the door. Mrs. McKenzie and Breen talked a few words about his wife coming before I went in ; I made some remark, I don't remember what. There

were four children around her ; there was a fire in the fireplace.

"Breen and my son then came in. They could not do anything. They were not fit to do anything, they were so through one another and frightened ; one was as bad as another. I searched the house myself. There was not much blood on the floor. The boy looked at the clock and told me the time, while I searched the iron chest ; the key fitted it.

"While we were going up, the conversation between Breen and me was about killing the women and children. I did not tell Breen to watch and kill anyone who came along ; I did not tell my son to do anything. My son could not do it, even if I told him ; he told me so afterwards. When I saw how they acted, I told them, after that I saw neither of them was of any use, or was fit for anything of the kind, says I, 'I have it all on me, and do neither of you even put your hand to anything of the like of it while you are alive.' I told them so because they were not fit for it.

"My son, I suspect, came in when we were searching the house. I took charge of the money ; I thought I was best entitled to it. There was no paper money, not even a dollar. The chest was full of books and papers, which I threw out on the floor ; I suspect they were all burned. We went out and stayed some time and returned again, and searched every place where we thought money could be, as we thought there must be more money ; we found no more. We then went to the lower house. I put fire to the bed ; my son might have done so too, but there was no occasion. I went down myself and got the body of McKenzie up on the floor ; Breen put his hand to one of the arms and helped it up.

Breen took some straw up with him to the upper house. I went into the upper house and got a candle that was lighting there. The straw was put at the door, and a lot of firewood was piled upon it ; I set fire to it myself. The children were all about the fire-place, around their mother. They were all dead at that time. Before the fire we heard some laments ; when I came back to the house from the fields I heard something like moans. I suspected what it was. I am sure they were all dead before the house was set fire to. My son did not, to my knowledge, put any fire to the straw. I should not wonder but my son was on the street, somewhere about, when we set fire to it. Breen helped me.

"Breen brought away some butter. We had a carpet bag and some bundles. All the traps were not very heavy ; we all helped to carry them.

"When we came home I did not notice whether Johnny got up ; he might be sitting or lying. It was not more than twelve or one when we got home. My wife said neither aye nor no to us, asked us no questions. Before we went I did not tell my wife where we were going or what we were going about ; she might have had an opinion. She never would have been concerned in such a thing ; she always set her face against the likes. I did not tell her where I had been ; she did not ask me where I got the money. I said I had put things through ; I made the remark because it was the readiest at the time.

"When I gave my wife the money she hid it. She did not get it that night ; it was on the table, and any of the family might have taken some. I knew it would not be lost. I gave Patrick the pocket-book ; there was nothing in it. I asked him for it again, Sunday ; he

gave it to me. There was nothing in it and I gave it back to him.

"The boy would disobey me when he got his own liberty. He would be his own master, but I would not allow him. I sent him part of a year to school. Lately he hired out short spells and worked about. He was good to work; he worked on the railway and Hanlon did not pay him. I think the youngest boy, James, has as much wisdom and knowledge as Patrick; Johnny is as wise as any of them. I suppose Patrick did not know the error of what we were doing that night. I suppose he had that much knowledge that we were doing wrong, but I know he would not do it, and could not be got to do it. I thought it was foolish of him to throw the money about the road. I showed the money the night before; I threw it on the table, and he took some. He has been a kind of plothering since the murder. I don't think he is as wise, or has the same idea as some boys of his age, nothing like it.

"Though we went into the woods we did not conceal ourselves much. We had time enough to escape, but had no idea of clearing. If we had any idea of it we might of been three hundred miles away. If we had determined to clear we could have cleared in spite of fate; there is no mistake in that. We may have talked of going but we never made up our mind to it.

"When Breen and I were in the house with Leet, Thursday night, my son came in. I spoke to him and he spoke to me. We did not speak much to one another. I did not speak to him as my son; I don't think Leet knew anything about him.

Re-examined by Mr. Wetmore—"Prisoner was a good boy to work, but kind of light and foolish. I think

Johnny will be the smartest boy of the lot. I saw my son fumbling about McKenzie's body, and should not wonder if he did put his hands in the pockets. I did not see him examining the pockets.

"I never told any one but Breen what I meant to do. I did not tell my boy what we were going to do; I would not tell him, because it would be imprudent.

"I am just as well satisfied I did not escape. I killed all the concern, and think I ought to die for it. I would never have done any good after making such a wreck, and I am satisfied I would have gone on and done worse. If I had known the error of everything before as well as I do, I would have been clear of it. I am satisfied to swing for it."

The effect of this recital upon the hearers cannot be described. Those who were present and are alive at this time, speak with horror of their feelings on that day.

The only other witness for the defence was George Thomas, who had been employed about the jail, looking after the irons of the prisoners. He gave his testimony that the prisoner seemed very foolish and careless while in confinement. Also that he had said his father had compelled him to go to the McKenzie's, and that if he had known they were going to kill people he would not have gone. He had said his father sometimes flogged him very severely. "The boy is no idiot nor one of the shrewdest boys," concluded the witness. "He seems a particularly ignorant and awkward boy. I do not think there is any foolishness about him. The boy is very ignorant and knows nothing of his soul. I think the laugh shows an ignorant vacancy of mind. It seems a habit."

At the opening of the court on Friday, November 13,

Mr. Kerr addressed the jury on behalf of the prisoner. After commenting on the horrible nature of the crime, he contended that the boy was not accountable, and that he had not acted with malice aforethought. It was clear the boy took no part in the killing. The evidence of the father, in the last testimony he should ever give until he appeared before his God, was that the boy took no part in the murder. One thing might appear horrible to them, that after these murders were perpetrated, the boy should have sought for food and have eaten ; but they should remember what boys were, how strong with them are the cravings of appetite, and that this lad had had no dinner and had walked nine miles. Commenting on the evidence, Mr. Kerr held that except that he had picked up the key, there was nothing to fix any act of the tragedy on the prisoner. This act was of little importance, as they did not know the value of the key when they got it. The jury should reflect in what way a man who so coolly detailed all the particulars of that horrid massacre committed by him would train such a boy as this ; the boy, following his father, was in fact little more than as a dog. The law held that an infant under fourteen was not accountable for crime ; and if it were shown that a boy over fourteen was more ignorant and simple than most boys under fourteen, he should also be held incapable of crime. Everything proved that this boy was simple, incapable of distinguishing sufficiently between right and wrong, ignorant of the value of money and not the person to form any concert to commit this crime. The real and only proper test in the case was this : Was the boy of sufficient capacity, when his father ordered him to accompany him on that occasion, to refuse and say, "No, father I will not go

with you. I will even prevent you from going, for I will go to Justice Hawkes. I will go to the nearest justice of the peace to tell him you are about to commit murder, and I will prevent you from the crime. That is what religion and the law requires I should do." That was the true standard. He had the commands and training of his wicked father on the one hand, and no instruction or knowledge of his duty on the other. Let the jury ask themselves if they could hereafter feel satisfied in their consciences for sending this boy to execution on the evidence before them. Mr. Kerr referred to the case of the boy Burgan, hanged for stealing, and the feelings respecting his execution that had since prevailed in the community. In that instance, as in this, the boy was known to be weak of intellect. He prayed the jury to have mercy on this poor boy, and on his mother, about to be a widow. It was theirs to feel and show mercy, in this case.

The prisoner was then asked by the court if he had anything to say, and after consultation with his counsel, he replied in the negative.

The Attorney General made a lengthy and able argument in closing for the prosecution. The evidence impressed on him the conviction that the boy was of a most diabolical nature, and was not fit to be set loose on this country. The jury should look at his conduct before they act, during its perpetration and after. Unless the boy knew beforehand that some diabolical act was to be done he would never have acted as he did. Reviewing the various facts brought out by the evidence, he held they proved the prisoner's capacity and his complicity in the crime. To say that a boy who could act as he did, and who after the family were slaughtered and the



bodies were lying about bleeding, could go in and eat bread and drink milk, had no complicity in what was done, would be to insult the intelligence of the jury. It had been said that the boy was under the duress of his father, but that could not exculpate him. Look at his conduct after the murder, his flying with the consciousness of guilt. The story he had told Hill was a very important test of the boy's capacity. The flight of the boy at the time of the arrest was no proof of imbecility. The harshness of his father had nothing to do with the case. The only question in regard to the murder was what part the boy took, and there seemed such a concurrence of circumstances proving his complicity that he could not escape from it. The counsel for the prisoner had talked of sympathy. He (the Attorney General) had as much sympathy as most men, but his sympathy was drowned in the blood of that murdered woman, swallowed up in the groans of McKenzie, and if he could have any sympathies left the cries of those poor children would rob him of the last vestige of such feeling. In such a case he believed the sternest justice was mercy. Talk of sympathy,—and mercy!—when in a moment, without an opportunity to offer up a prayer to the ever-living God, father, mother, even the little, prattling children, were hurried into eternity. At such a moment he could know nothing of his feelings as a man; they were overwhelmed by his sense of duty to the God of justice and to his country. His duty and the duty of the jury were alike in this respect, and this feeling they must perform, not heeding what was said here or there, but doing what was right. They stood between the living and the dead; they stood as sentinels on a watch tower; and if in this vast wilderness of crime, spread out

before their eyes, they could discover one beacon light which would warn them to doubt, let them give the prisoner the benefit of it. But mercy might be misplaced. If a misplaced mercy allowed every criminal to escape, no man's life, nor that of his wife and children could be safe; no man's property would be secure. These nothing could preserve inviolate but strict and impartial justice. For himself, entertaining, as he had, peculiar views concerning the death punishment, he must say his opinions had been shaken by the horrors and circumstances of this case; and he was compelled reluctantly to believe that nothing but the certainty of a dreadful fate would deter some minds from crimes like these. This case stood out in bold relief from all others, hideous in its enormity, and would be spoken of for many generations. For himself, he felt relieved that the agony was nearly over, and that he would be freed from the intense anxiety he had felt. What was to be done that day could not be undone. The jury had a solemn duty to perform. Let no consideration withdraw them from a fixed and stern determination to do justice between the offended majesty of the law and the prisoner at the bar. That which was justice now would be mercy hereafter.

Amid a silence so profound as to be painful to the senses, and with every evidence of deep emotion, the venerable Judge Parker began his charge to the jury.

It was clearly shown, he said in the course of his remarks, that murder had been committed. The question they had to determine was whether there was sufficient evidence that the prisoner at the bar was aiding and abetting in the dreadful act. If they were convinced that he was so aiding and abetting, they would find him

guilty. If it were not proven to their full satisfaction, and beyond a reasonable doubt, they would find him not guilty. And whatever they might think of the guilt or innocence of the unfortunate prisoner at the bar, they must all be disposed to pity him for the circumstances under which he had been brought up. Without the commonest rudiments of teaching, without any religious instruction, without the least idea of prayer, his was a lamentable case.

The prisoner at the bar was not charged as accessory, but with aiding and abetting the actual committers of the murder in the execution of the crime. Any person who was present at the committing of such a crime, or within sight and hearing of the fact, and knowing the crime was to be committed, or kept watch to see that none interrupted the actual murderers, was guilty of the offence of being principal in the second degree, and liable to the penalty for murder. There could be no question, in this case, that the prisoner was present at the murder, that he kept watch for the actual murderers and that he helped to carry away the produce of the robbery. All these facts showed that the prisoner was present with the others, not leaving them at all; not only present, even, but actually taking part in the crime.

The fact of going to the house of the murdered people, and staying there, was not denied, but two grounds were relied on to save the prisoner. First, that he was not of an age to make him liable for his acts in the eye of the law, and that this was coupled with imbecility of mind. But the boy was clearly not under fourteen years of age; in that respect there could clearly be no presumption of law in his favor. Not being entitled to the advantage of the law holding

infants prime facie irresponsible, it was for the prisoner to prove to the satisfaction of the jury that he was imbecile.

The next ground on which the defence rested was coercion. It was said his father coerced him to aid and abet the commital of these murders; but there could be no such coercion. It was the prisoner's duty to discover the crime, he was in no such relation to his father as to be compelled to witness such a deed, and no attempt was made either to show he resisted his father, or that the father even threatened him if he did not go. Such a presumption in fact as that a son could be coerced by his father did not exist; and in fact existed in no relation of life, save only, in some cases, in that of the relation of a wife to her husband. The law presumes that a child cannot be coerced by its parents, but at the same time, it does not exclude proof of coercion; and he was bound to tell them that in this case there was no evidence of distinct coercion. What had been said of the father's general severity and the command he exercised over his children was no proof at all.

The next and great point raised on behalf of the prisoner was that, though the son knew of the combination and knew of the robbery, he did not know that personal violence was to be committed. There was no presumption in law that because a person was not actually present at a murder therefore he was not aiding it. But if he were not present and were not aiding, that fact was susceptible of proof, and if proved, would lead to an acquittal. In regard to this point, then, they would have to consider the conduct of the boy before the act, during its commission and afterwards.

The facts being clearly proven, it lay on the prisoner

to show either that he wanted capacity, that he was under coercion or that he was ignorant of right and wrong. And here the jury had a most solemn duty to perform, and however much they might pity the prisoner they must do their duty to the country; for though much had been said about mercy, all they could do in mercy was to see that the prisoner had a fair trial.

In adverting to the evidence of the different witnesses, the judge remarked that he certainly had been unprepared for the cool testimony of Slavin and Breen. He had almost doubted his own identity when the man Slavin told the tale of these frightful murders with so calm and collected an air. A cooler witness he had never seen on the stand, and he was astonished at the calmness of that extraordinary man.

The jury were to consider whether the prisoner was so wanting in sense as not to be held criminally answerable for any act. Were they satisfied that the boy, though knowing of the robbery, went, judging by his condition at the time, ignorant of the intent to "put it through," as his father had said? If he was of sufficient age, if he was of sufficient capacity, and what was his conduct, were matters for the jury to judge. With these questions to be determined, he would leave the case in their hands.

In the course of the charge during the reading of the evidence, and especially that of Breen and Slavin, Judge Parker was deeply affected. At times he could scarcely speak, by reason of the emotion he felt, and the tears ran down his cheeks as he read aloud the story of the slaughter of the helpless children.

The jury retired and after deliberating about half an

hour, returned into court where the usual questions were put and answered as follows:

The clerk—Gentlemen of the jury, are you agreed upon your verdict?

The foreman—We are.

Clerk—How say you? Do you find the prisoner at the bar guilty or not guilty of the offence with which he stands charged?

The noise of the jostling of the eager crowd had by this time subsided, and in the deep silence every ear was strained to hear the answer. There was a murmur of relief when the foreman replied in a clear voice:

"Guilty!"

The buzz of excited whispering was heard in the crowd, but died away a little later. The foreman, after a pause, again addressed the court.

"I am requested by the jury," he continued, "to recommend the prisoner to the merciful consideration of the court, both on account of his youth and the bad example that has hitherto been set him."

"Gentlemen, your recommendation shall be forwarded to the proper quarter," replied Judge Parker.

The prisoner, who seemed, from his manner, to be less interested in the matter than anybody present, was then remanded, to be brought up for sentence at a future date.

## IV.

## THE FATE OF THE GUILTY.

During the time the jury were absent, young Slavin had been removed from the dock and taken back to the jail. Presently the constables were heard returning and the excitement was great when it was seen that they brought with them the elder Slavin and Breen. The two were placed in the dock; and amid what seemed like a breathless silence, the attorney general prayed judgment of the court in their case.

"Patrick Slavin and Hugh Breen, what say you why sentence of death should not be passed on you?" asked the clerk of the court.

"I'm satisfied, sir," replied Slavin. Breen was silent.

Proclamation having been made, Judge Parker then addressed the prisoners as follows:

"Hugh Breen and Patrick Slavin, although you have pleaded guilty on two separate indictments, the evidence and your own statements show that your offence was one, and warrant me in addressing you together. In your own solemn confession, you stand here, before the face of your country, two convicted murderers." ("Yes, sir," assented Breen.) "And though the circumstances of your guilt are not the same, the crime is the same. The extent of your crime is fearful to contemplate; it is such as was never before known in this, and perhaps not in any other, country. You deliberately planned and perpetrated this murder under the most atrocious circumstances—circumstances that have filled everyone with feelings of horror and alarm, so that because of your conduct many persons are afraid to pursue their

usual avocations. You killed this man, his wife and four little children, for the sake of possessing yourselves of a little money a man had acquired by honest industry for the support of himself and his family ; and now you stand as a terror and warning to all evil-minded persons who desire to take by force the property of their neighbors. I hardly know what to say to you under such circumstances. You yourselves seem to be sensible of the awful position in which you stand. I can only urge upon you the most complete repentance while yet there is time ; I can only entreat you to ask mercy of your God, who alone can pardon you. Here you must be held up as an awful example of the effects of crime, but there your petition may not be in vain. You have time, though this was not granted to those who were your victims. Make good use of that time. Send for the ministers of your religion ; address yourselves to the Lord in heartfelt, earnest prayer ; and may He, through the precious merits of His Son, grant you pardon.

"It only remains for me now to pronounce the awful sentence of the law—that you, Hugh Breen, and you, Patrick Slavin, be taken hence to the place from whence you came ; and thence, on Friday, the eleventh day of December next, to the place of execution, and that there you be hanged by the neck, each of you, until you are dead ; and may the Lord God have mercy on your souls."

During the solemn words of the sentence the condemned men seemed no more affected than at any time during the trial. Breen stood in one corner of the dock looking straight at the judge, and Slavin stood in the other corner with his head down. Immediately after the sentence they were removed to jail, young Slavin



brought back and the verdict of the jury given in his case, as already related.

One week later, on the afternoon of Friday, the 20th of November, young Slavin was again brought into court and placed in the dock for sentence. He showed no more sense of a realization of his position than on any previous occasion. When told to stand up, he rose and immediately sat down again, but on being informed that he must remain standing he rose again, folded his arms and assumed an attitude which betokened neither agitation, fear, shame nor sorrow. He made no reply when asked if he had anything to say why sentence of death should not be passed on him. Judge Parker then delivered sentence as follows :

"Patrick Slavin, junior, you stand in as dreadful a position as any man can stand, and I hope, therefore, you will attend to what I now say to you. You were charged with having aided your father and Hugh Breen in the murder of Robert McKenzie, and after a most patient and attentive consideration of your case, after all that able counsel could do in your behalf, a most respectable, intelligent and impartial jury have found you guilty. There never was a verdict received with more approbation. I fully concur with that verdict, for the evidence was such as to bring conviction to every man that you were guilty.

"A more barbarous murder has never been perpetrated, and it is difficult to find any palliating circumstances in your conduct on that occasion. You were evidently not void of understanding, for you invented several stories to relieve yourself from the burden of your punishment, and one of these alleged that the prisoner Breen had struck the fatal blow. There can be no doubt

that you knew what the intentions of your accomplices were. When Breen went for McKenzie, when your father waited in that dark room with the axe in his hand, and you were with him, you must have known what his intentions were ; and when McKenzie came to the house and was struck down before he could utter one word, what was your conduct ? You did not interpose to save him ; you did not attempt to alarm him or ask that he might be spared ; nor did you, when the deed was done, fly in terror or show in any way that you had not expected it, but you hovered around and searched the lifeless body for plunder. What was your conduct after that ? Keen for the work, to use the expression of Breen, you coolly and deliberately went with them to the other house and looked on while, with another axe, your father killed that poor woman, and then with a brutality unparalleled, struck down the little children who huddled around her. I do not know if there is any recorded case so horrible, so brutal as this. Yet you looked on it all. When you returned to the house again, you heard the moans of the wretched victims, yet you assisted your father in searching the house for the plunder you sought. What was your conduct when you returned home ? While your father narrated to your mother and your little brothers the horrible deeds he had committed, you coolly inquired what part of the clothes of the murdered man you could appropriate to your own use.

All this fully proves that, if your conduct has not been as black and dark as that of the two principals in this crime, it has been black and dark enough. And it leads to the question if, at the age of sixteen, you were as capable of so great a crime, what will you be ten

years hence, should your life be spared ? And were it not that the two others convicted of the same crime seem even more guilty than you, it is probable that you would pay the extreme penalty of the law. But the jury, considering the want of proper instruction and the dreadful example set by your father, as well as his harshness, have recommended you to mercy. As the demands of justice would seem to be satisfied in this case by the death of the two greater criminals, I have not thought it inconsistent with my duty to recommend to His Excellency, the Lieutenant Governor, Her Majesty's representative, that the mercy prayed for by the jury be extended to you. I can now give you hope that your life will be spared ; but I can hold out no hope that you will again be let loose on the community, although it is not for me to say what may be the effect of penitence and years of good conduct. The clemency of the country will always be granted to the deserving. I implore you therefore, in the rest of your life to strive for a sincere and heartfelt repentance and an earnest effort to amend. You have already while in jail, received some instructions ; let me exhort you in the future to hearken to instruction and profit by it. The story you told Mr. Scoullar, and the cunning with which you strove to relieve your father and throw the weight of guilt on Breen, show that you do not lack intelligence. You will now get the opportunity of amending if you choose. While in the penitentiary you will meet with many entering on the paths of crime. These you should warn of the evils of such a course, and you should, by your whole conduct and demeanor, prove your sorrow for your crime and your gratitude for the mercy shown you. Let me entreat you to reflect and repent of the past, and

to earnestly pray to Almighty God to soften your heart.

"In accordance with the verdict which has been rendered, it is now my duty to pass upon you the sentence which the law prescribes for your crime. The sentence of the court is that you, Patrick Slavin, junior, be taken hence to the place from whence you came, and on Thursday, the fourth day of March next, to the place of execution; and that there you be hanged by the neck until you are dead, and may the Lord God have mercy on your soul."

Young Slavin appeared to be little affected by the sentence and walked back to jail with as little appearance of concern as he had shown at any time during the trial. When it was explained to him in his cell that he would probably have to stay in prison for the rest of his life, he seemed somewhat cast down, but soon resumed his careless demeanor and amused himself with a slate and pencil on which he was accustomed to make rude attempts at drawing.

Quite different was the behaviour of his father and Breen. Old Slavin, after his sentence, professed to be in great remorse for what he had done, and went so far as to say that he did not think hanging was a sufficient punishment for his offences. He told the sheriff much more than he had admitted on the trial, showing his crimes in a still darker light, but the disclosures he made were not given to the public and it is not necessary to revive them now.

Breen broke down completely when taken back to the jail, and proved himself as great a coward as he had been a villain. He wept and bewailed his crimes and his fate night and day, and appeared so despondent that one would suppose that every precaution would have been

taken to prevent any attempt at suicide on his part. Apparently it was assumed that he would not have the courage to take his own life, for though a special guard was placed over him, nobody stayed in the cell; and as was found when too late, the means of self-destruction were easily within his reach.

On Sunday evening, the 6th of December, between six and seven o'clock, Miss Creighton, daughter of Nugent Creighton, the jailer, went to the wicket of Breen's cell and called him. Getting no answer, she opened the door and went in, when she found the wretched man had put an end to his life by hanging himself with a silk neck handkerchief. Less than half an hour before a visitor had been talking to him through the wicket, and it is evident that Breen had everything in readiness to carry out his purpose as soon as he was free from observation. Fastened as he was by a chain stapled to the floor, he had but a limited opportunity to move around, but procuring a piece of wood about three feet long, he got on his bedstead, which was in a corner, rested one end of the stick on a cleat against the wall and the other end on a nail in the other wall. Fastening his handkerchief to this and making a noose around his throat he allowed his body to fall forward until strangulation resulted.

Among those who arrived soon after the discovery was Rev. J. Peterson, who had been Breen's spiritual adviser. With great self-possession he held the body until it was cut down, but life was already extinct and any attempt at resuscitation was useless.

A coroner's jury censured the sheriff and his officials for negligence, and there was renewed excitement among the citizens when it was learned that Breen had cheated

the gallows. On the following day more than a thousand people visited the jail and viewed the body.

Slaven was hanged by due process of law, and met his death firmly. The night before the execution, the following statement was prepared at his request and assented to by him.

"I, Patrick Slavin, feeling the hour of my execution close at hand, wish it as a last request that the public be informed after my death that I am now penitent, and acknowledge the heinousness of my crime and the justice of my punishment. I desire to return thanks to the sheriff, Mr. Johnston, for any kindness he has shown to me, so great a criminal, so far as was consistent with his duty. I also thank Mr. Willis, Mr. Thomas and the others who were in charge over me, for any kindness and sympathy they have shown me. I feel grateful both to my clergymen for their persevering attention in bringing me to a proper knowledge of my guilt, and in making me sensible of my religion, and the Divine Mercy; and also to those ladies who consoled me by their advice and religious instruction. I die forgiving every one in this world, especially those whose duty is to carry out the ends of justice; and as I forgive, so I hope to be forgiven, trusting in the goodness and unbounded mercy of my Divine Redeemer; and may my wicked life and melancholy end be a timely warning to others who neglect their duty to God and religion.

"Signed in my cell in the jail, December 10th, ten o'clock at night.

His

PATRICK X SLAVIN,  
Mark.

"In the presence of  
Patrick J. Casey.  
Witness, Thomas Budge."

At that time the jail had not the basement story which is now part of the jailer's residence, and the only street entrance was in what is now the second story, just above the present door. This had a large stone porch, and was reached by a flight of stone steps leading down to the street. The centre cell in the upper story was the drop room, or execution chamber, and a hinged grating led from it to the gallows, built out on the street from the top of the porch, the supports resting on the ground. The trap door of the platform was held by a line passing into the jail, the cutting of which would cause the trap and its human burden to drop. Everything, except the act of cutting the line, was in full view of the public. The execution was under direction of Sheriff Charles Johnston, who personally attended to the details placing the criminal on the drop and affixing the rope to the cross-beam over head. I believe he also cut the rope supporting the drop, though many had an idea that this was done by George Thomas, an armourer, whose duty it had been to inspect the chains of the prisoners day by day to see that they were secure. This was the Mr. Thomas mentioned in Slavin's last statement; the Mr. Willis was John Willis, deputy sheriff.

The morning of Friday, the 11th of December, 1857, was clear and cold, with just a little snow on the ground. The hour for the execution was fixed for 10 o'clock, but long before the hour a vast crowd had gathered on King street east, or Great George street, as it was then called. There was a crowd, too, in the old burial ground, in the King Square, on the Black House Hill (the rock running eastward from King and Carmarthen streets, and since cut away) and every point where a view

could be had was occupied. Many women were among the spectators. The city police and a detachment of troops from H. M. 62nd regiment surrounded the scaffold, and formed a line impervious to the surging mob.

Slavin appeared firm to the last, though it is said there was a tremor in his legs as he stood on the fatal drop. Before leaving his cell, he expressed his willingness to die, if he could thereby expiate his crime. He walked with a steady quiet step, and did not utter a word after reaching the scaffold. He was dressed in dark trousers and waistcoat, but no coat, and a clean white shirt. Very little time elapsed from his appearance until the drop fell. The sheriff having adjusted the rope returned into the jail. Prayers were said by Rev. John Sweeney, and the chief of the McKenzie murderers met his merited fate.

The hanging was what is technically known as a good job, and the only observable motion of the limbs was the momentary jerking up of one leg. The distance of the drop was well proportioned to the weight of the man—a vital point in this style of execution—and the neck was broken. Life was wholly extinct when the body was taken down, thirty-five minutes later, and examined by Drs. Travers and Hairs.

Thus ended the eighth life, and, it may be, the ninth, brought violently to a close in connection with the Mispick tragedy, and all for the sake of a hundred pounds in gold.

The hanging of Slavin was the last public execution in St. John, and he was the last man hanged here on the old but efficient style of gallows with a drop.



## V.

## WAS THERE A FOURTH MAN?

Whether the life of Slavin was the eighth or the ninth yielded up in the Mispick tragedy must be judged according to the degree of credence attached to the oath of young Slavin. His story was accepted at the time as true.

On Sunday, the 13th of December, two days after the execution of old Slavin, some boys wandering in the woods at Little River, between Slavin's house and the city, found the body of a man with the head separated from the trunk and lying some distance from it. The head was lying with the face upwards, and a good deal of the flesh had been gnawed away by animals of some kind. The body, which was frozen, was lying breast downward, and had also been disturbed by animals. The left hand appeared to be in an attitude of defence. Apart from the jagged edges of the flesh which indicated that the neck had been gnawed before the head was carried away, there seemed to be a clean cut, as if a knife had been used on the throat. The body was brought to the city and an inquest begun.

The remains were identified as those of Henry Stewart, a resident of St. John, who had formerly been in the employ of Eben Hatheway, and who had been suspected of being mixed up with the loss of some money by that gentleman, some months before. Stewart had disappeared from St. John previous to the date of the McKenzie murder, and his whereabouts had been unknown.

Previous to the inquest on Stewart's body, a great sensation was caused by the rumor that young Slavin,

who was then in the penitentiary had made a confession that there had been a fourth man implicated in the murder and that he had been killed by Breen. This was corroborated at the inquest by the evidence of John Quinton, warden of the penitentiary. He deposed that young Slavin had made a confession to him and the captain of police, in the penitentiary to the following effect :

That on the night of the McKenzie murder, while they were returning home, they met a man at the place where the road to Slavin's house turned. The man seemed to be there by appointment of Breen, who coughed as a signal. The two had a conversation and Breen gave the man a heavy tin box, which he carried in the direction of the city. The description of the man agreed with that of Stewart. When Breen returned to Slavin's after going to the city on Sunday, he said he had killed this man with a knife and that the box was to be sent to Fredericton.

The inquest was adjourned to the penitentiary on the following day and the convict Slavin told a very clear story. He said he had heard the name of Henry Stewart mentioned by Breen the night of the murder, after they had gone home. On that night he had seen a man Breen called Stewart, about five miles on the city side of McKenzie's. This man was in the bushes and came upon them suddenly. Breen said, "you did not go back nothing," and they drew aside in conversation. At last Breen gave the man a heavy tin box, brought from McKenzie's, and said ; "you can leave that at Ramsay's ; take good care of that and leave it where I tell you ; don't forget." The man went away with the box. Breen went into the city the next day, Sunday, to meet

this man with the tin box. He returned Monday morning and said he had killed the man. "I put him out of the way, at any rate; he won't tell no tales." Young Slavin asked him what man he meant, and he replied, "Stewart, the man you saw that night." He said he had killed him with a knife, by cutting his throat when some distance out of town. Old Slavin told Breen that may be it was better that he had killed Stewart. Breen did not bring the tin box with him. It was said to contain gold, which was to be divided afterwards. Breen said the man had not left the box at Ramsay's, and that was why he had taken his life. It was believed that Stewart had hidden the box. Young Slavin's description of Stewart agreed with that of the dead man.

At the inquest on the previous day, Johnny Slavin had sworn that he had heard no mention of a tin box, or of a fourth man connected with the murder.

Margaret Lindsay, at whose house Stewart had boarded, deposed that she had last seen him on a Saturday, about seven weeks before, which would be the day of the murder, and Alexander Lindsay also testified to his having disappeared on a Saturday, though he was not positive about the date.

The only negative evidence, in addition to that of Johnny Slavin, was given by Sheriff Johnston. He deposed that while Breen and Slavin had constantly talked to him, in jail, of what they had done, and had admitted much more than came out in the evidence, there had been no reference to a fourth man in the party. Slavin had described several of his projects for murdering people, but made no mention of a man named Stewart. The sheriff, from his knowledge of young

Slavin, the convict, would not believe him, and did not think he could tell the truth if he tried.

The coroner's jury took a different view however, and returned a verdict of wilful murder against Hugh Breen. This verdict met with popular acceptance, and few doubted that the convict had told the truth. It is probable he did. Even had he, from no apparent motive, invented the story of a fourth man, he could not have made it agree so fully with the circumstances as to the description of Stewart, nor could he have guessed that Stewart disappeared from St. John on the day preceding the night of the murder. Thus it would appear that nine lives were brought to an end by the Mispeck Tragedy.

## VI.

## CONVICT AND FUGITIVE.

The sentence of death passed upon Patrick Slavin, junior, having been commuted to that of imprisonment for life, he was sent to the St. John penitentiary on the 30th day of November, 1857, and remained there for almost fourteen years, when he made his escape on the second attempt to gain his liberty, the first having been made a few years after his conviction.

Slavin received instruction during the time he was in prison, and was well behaved, as a rule, though he had an ugly temper and was known to be dangerous when provoked. On one occasion, in an altercation with a fellow convict, in one of the workshops, he made an attack with a pitchfork and would have taken summary vengeance had he not been prevented by the guard. The convicts were employed in the making of brushes, brooms, pails, etc., and Slavin was put at one class of work or another, as occasion required.

The warden of the prison was John Quinton, and he frequently visited the city in the evening, taking his own conveyance. Some well conducted convict attended to the stable, and in 1871 Slavin was the man who performed that duty.

On the evening of Monday, the 18th of September, in the year last named, Warden Quinton had his horse harnessed by Slavin and drove into the city. After he had gone, Slavin told a keeper that the warden had ordered him to stay around until his return, in order to care for the horse. In the easy way in which the institution was run in those times, this explanation seemed reasonable, and Slavin appears to have been left to his own devices.

When the warden returned, at a quarter to nine, the prisoner had disappeared.

It was found that the escape had been carefully planned and carried into effect. Slavin had managed to secrete a board around the yard, had nailed cleats to it, and placing this convenient ladder against the south wall of the stockade, had scaled the enclosure and disappeared in the darkness. Nor did he go empty-handed, as the following articles were found to be missing from the room of one of the keepers: A black broadcloth frock coat, with velvet collar and long skirt; a black silk velvet waistcoat; a pair of checked trousers; a gingham shirt; a black silk velvet necktie; a black cloth cap; a pair of mauve colored kid gloves; two silk pocket handkerchiefs and six dollars in money. In short, he had a very respectable outfit, and needed only a silk tile to complete his costume as a gentleman of leisure.

All search for him proved in vain, but a reward of one hundred dollars was offered for his capture; his description was published in the newspapers. He was described as 5 feet 6½ inches tall, of stout build, dark hair and beard closely cut, and one of the marks of identification was that he never looked anyone steadily in the face.

Three days later, on the afternoon of Thursday, the 21st, H. F. Vavasour, of Fredericton, saw a weary looking traveller on the highway at Vanceboro, Maine, just over the St. Croix river, which is the boundary between Canada and the United States at this point. Mr. Vavasour had read the papers, and at once suspected this man to be the escaped prisoner. To verify his opinion he went to the store of Hill & Fraser and read the description again, after which he remarked that he could put his hand on Slavin in two minutes. Going out, he ac-

costed the stranger and asked him who he was. The man replied that his name was Chambers, that he belonged to Montreal and was making his way home on foot, having lost all his money in the Renforth boat race at St. John, a few weeks before. He further said that he was hungry, as he had found the settlers along the road to be a hard lot, and that he had only had one meal since Monday. He then inquired if there was a brush factory in that part of the country.

This question confirmed the suspicion that he had escaped from the penitentiary, and Vavasour concluded to watch and follow him. The stranger then went into the store and purchased a hat and a pair of socks. In paying for these articles the change given to him was in United States fractional paper currency, and a very curious thing occurred.

Slavin had gone to prison, at the age of 16, in the year 1857. Between that time and 1871, while he was dead to the world, a great war had taken place, a great nation had been well nigh rent asunder, and thousands of changes had taken place in the ways of daily life. A new currency had come into existence, of a kind he had never heard of or seen, and when it was tendered to him he gazed at it with as much surprise as Rip Van Winkle is supposed to have looked upon his altered surroundings on awaking from his sleep of twenty years. In Slavin's case, the surprise was a complete betrayal of his identity. A man who had never seen shinplasters must have been a long time in some place where no money was current.

In the meantime, Vavasour had come into the store and handed to Hill a paper with the description of the fugitive. Hill looked at it and nodded. The stranger, having made his purchases, continued on his way.

Soon after this, the train arrived, and there was a consultation as to what ought to be done. Among those who took part was a United States customs officer named Sprague. He said that Slavin ought to be taken, and conductor Miles offered the use of a pair of handcuffs, while Vavasour went to the hotel and got a revolver.

By this time the stranger had disappeared, but he was easily traced to a log shanty. When Sprague and Vavasour appeared at the door, they found the object of their search sitting down to rest himself. He raised his head with the look of a hunted animal which had no hope of escape. Vavasour pointed his revolver at him and exclaimed :

"You are our prisoner, and your name is Slavin !"

"Yes, it is," was the reply "but it is hard to be taken in a free country, after being fourteen years in prison. I wish you would shoot me, rather than take me back."

He submitted to be handcuffed and was taken to the hotel where food was supplied and two guards were stationed to watch him. A telegram was sent to St. John, and Warden Quinton, with Keeper Keefe, left for Vanceboro to bring back the fugitive.

Slavin was taken before a magistrate, but in the meantime the extradition treaty was looked into by that functionary and others who had not been concerned in the capture. They found that it provided for the surrender to British authority of persons charged with murder and certain other high crimes, when such persons were found in the United States, on evidence which would justify commitment for trial. The intent of the treaty, in short, was that persons "charged with" certain offences might be delivered up for trial. Slavin was an escaped convict but he was not charged with murder or any other



high crime for which he could be tried if sent back. The only offences for which he could be tried was breaking out of prison and the larceny of what he carried away; neither of which came under the terms of the treaty. Under these circumstances the magistrate held that he had no authority to detain Slavin and the prisoner was set at liberty.

Keeper Keefe afterwards saw Slavin and had a talk with him. For some time previous to the escape there had been a prospect that the life sentence might be commuted to a term of fifteen years, on account of Slavin's youth at the time of the murder and his having acted under the direction of his father. As the prisoner had been aware that efforts were to be made in his behalf, Keefe asked him why he had taken the risk of an added term for running away, when there was a chance that he would soon have a pardon.

"What was I to do when I had a suit of clothes and money to pay my way?" was the reply.

There were suspicions, whether just or not, that Slavin was aided in his escape by somebody within the prison. There was, however, a very general feeling of sympathy for him, and few among the public were sorry that he was free. It was felt that the arguments adduced in his favor at the trial were worthy of consideration, and that having had time to reform he should be given a chance to lead a useful life.

Slavin found employment at Vanceboro in the construction gangs which were at work on the railway. Since then the public have heard nothing of his whereabouts. With his disappearance ended the last act in the memorable Mispick Tragedy.

## REDBURN THE SAILOR.

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While the Mispick tragedy far eclipsed anything in the nature of crime ever known in New Brunswick, there was a case, eleven years previous, which excited a very deep interest in St. John. It was that of Charles Redburn, hanged on the 29th day of December, 1846, for the murder of a shipmate on board a vessel lying at this port. It was a simple enough case of killing, but the behavior of the condemned man excited a great deal of sympathy on his behalf, and strenuous efforts were made, but in vain, to secure a reprieve. There were, as will be seen, other reasons for this sympathy, but the evidence of wilful murder was too strong to admit of a commutation of the sentence.

Redburn, as he called himself, though his true name never was known, was cook on board the barque Jane Hammond, of St. John, owned at that time by the estate of William Hammond, deceased. He claimed to be a Swede, was said to be of very respectable family, and was about 35 years of age. He bore a good character aboard ship, was not quarrelsome in his nature, and seemed in no way a man likely to kill another.

The Jane Hammond, commanded by Captain Oliver Healey, arrived at St John from Liverpool on Monday, the 2nd of November, 1846. Redburn was ashore on Tuesday and remained all night, making merry after his voyage over the ocean. On Wednesday morning he

came aboard, feeling the usual effects of a spree, and bringing with him a bottle of liquor. With this he treated some of the crew, and went to the galley to prepare breakfast. There had been some tricks played on him, and he had been provoked into a state in which a very slight thing would exasperate him. While in the galley, one of the crew, Patrick Carling (or Kerley) went to him and asked for his breakfast. Redburn's reply was, "I have done a damned sight too much for the whole of you already," referring perhaps to the liquor he had given them. Carling, unfortunately for himself in this instance, was a teetotaller; his heart had not been warmed with a libation, and he did not enter into the spirit of the remark. He retorted, "You have not done more for me than anybody else has, and if you do not give me my tea I will take it myself." He then dipped his pot into the boiler, and while he was doing so Redburn said, "If you do not take it, I will throw it over you." Carling got his tea and went forward to the windlass, where he began to eat his breakfast.

Presently Redburn, who had evidently been much annoyed at some remark made by Carling, came out of the galley and went forward to where the sailor was standing.

"You do not remember when you were at home eating potatoes, and salt and water?" said Redburn.

Another sailor, John Burns, here interposed with the remark that there were better men than Redburn or any of his countrymen, who had been brought up on that kind of food.

"Never mind him, Jack, do not bother him," said Carling, and Redburn returned to the galley. Soon after this, Carling went to the galley, leaned one

shoulder against the side of the doorway, and reaching in shook Redburn by the collar of his shirt and said, "If you are a man you will come out and take it up. Wait until after breakfast and we will then see what you have to say." Then Carling walked back to his former position at the windlass.

Redburn then did something which operated very strongly against him on his trial. He went to one of the crew and borrowed a sheath knife, which he had been in the habit of getting for cutting meat and other galley work. He seemed quite calm. Getting the knife he rubbed it up a little on the grindstone, and five minutes or so later he came out of the galley with the knife in his right hand and a tin quart measure of greasy hot water in his left. Approaching Carling, he made a quick motion and threw the hot water on his head.

"What was that you did to me in the galley a little while ago?" demanded Redburn.

Carling had turned away his head as he felt the hot water, and he cried out, "I'm scalded!" Redburn immediately plunged the knife into Carling's back, at the right side, penetrating three inches, and completely dividing the lower rib. On feeling the knife, Carling shouted, "I'm stuck! I'm stuck! I'm stuck!" grappled with Redburn and then ran around the deck, falling into the arms of some of his messmates, who supported him.

Redburn, in the meantime, had gone back to the galley, where he laid down the knife and walked to where the sailors were supporting the dying man.

"I did it and I suppose I will be hanged for it," said Redburn. Immediately after this he was seized by Captain Healey and others, put in irons and afterwards sent to the jail.

The barque was lying at the foot of Germain street, a little distance out from the shore, and the news of the stabbing soon caused a very large crowd to collect on the wharves. In order to avoid them and prevent any demonstration against Redburn, the prisoner was put in a boat and landed at a part of the harbor further to the eastward.

Carling was taken ashore to the house of Mr. McGeaghey, at Reed's Point, and afterwards to the marine hospital, where he died a few hours later. Captain Healey, who did what he could to make his sufferings easier, told those who were present that Carling had been the quietest and best behaved man aboard the barque.

A coroner's jury having found a verdict of wilful murder, it became necessary to call a special session of the supreme court to deal with the case. In the ordinary course of things there would have been no session until the regular circuit in January, but as the witnesses in this affair were seafaring men, and it was not desirable to detain them, the special court was held on Tuesday, the 24th of November, His Honor George F. Street, who had been appointed a judge the previous year, presiding.

The grand jury found a true bill, and the prisoner, when arraigned, pleaded not guilty, and said he would be ready for his trial on the following day.

The prosecution, at the trial, was conducted by Hon. W. B. Kinnear, solicitor-general, while Redburn was defended by Robertson Bayard and Hon. John H. Gray. The jury was composed of the following well known citizens: William Hughson, foreman; Henry Hood, James G. Lester, Edward E. Lockhart, Charles J. Melick,

William L. Avery, Thomas Crozier, Charles Calkin, Stephen H. Fought, Thomas Gard, Richard Thomson, Henry Vaughan.

The witnesses were few in number, and the principal one was John Burns, who deposed to the facts as already given. This witness, in cross-examination, was asked if he had boasted that Redburn would be hanged and that he would be "the boy to put the nails in his coffin." He denied saying this, but it was afterwards proved, by the evidence of two witnesses not connected with the affair, that he had used these words. In addition to these witnesses for the defence, Captain Healey gave Redburn a good character, while John Willis, keeper of the jail, deposed that when the prisoner was brought there he was much excited and appeared to be under the influence of liquor. Later in the day he seemed much grieved at what he had done, though he did not then think the wound would cause Carling's death.

The contention of the counsel for the defence was that the killing amounted to manslaughter, but not to murder. The solicitor-general, while very moderate in his address, pointed out that nothing less than murder could be shown. Judge Street, after reviewing the testimony and pointing out the law as to what constituted murder, felt it his duty to say that, from the evidence before the court, there did not appear such provocation for the act as would reduce the charge below that of murder, as laid on the indictment.

The jury, after an absence of two hours, found the prisoner guilty of murder, recommending him to mercy on account of his previous good conduct. Sentence was deferred until the following Friday, the 27th.

On that day Redburn was brought into court, when

Judge Street, who showed much emotion, passed sentence of death. In doing so, he besought the prisoner to look back and consider how he had sent a fellow creature into eternity with all his sins upon his head, with but little time to repent and prepare himself for another world. A greater privilege would be allowed the prisoner, and he would have space for repentance, but his life, which under ordinary circumstance might have lasted long, must be sacrificed, through his own act, by the law. He begged the prisoner to repent of the past and prepare for the future. "No matter how guilty you have been, you may yet apply for pardon from the Throne of Grace, and your sins may be forgiven. Religious men will attend you and give you their assistance, but you must remember that they can only assist, and you yourself must seek for mercy." The judge added that he saw no point in the evidence which would justify him in an application for a mitigation of the sentence. It would be useless for him to hope for pardon or reprieve. His Honor then concluded: "The sentence of the court is that you shall be taken from this place to the jail of the city and county of Saint John, from whence you came from thence, on Tuesday, the 29th day of December next, you shall be taken to the place of execution, where you shall be hanged by the neck until you are dead; and may the Lord have mercy on your soul."

Redburn bore his sentence manfully, while the judge and the large concourse of spectators were very much affected.

When the murder was committed, there had been a popular demand for strict justice, and a fear that the

guilty should escape. As soon as Redburn was convicted, the wave began to turn the other way, and many were anxious to see him saved from the gallows. Letters were written to the press and long discussions ensued on the question of capital punishment. The bearing of Redburn during and after the trial impressed many in his favor, but however far allowance for his provocation could be made by human nature, the evidence clearly made his crime murder. He resigned himself to his fate and welcomed the ministrations of those who sought to bring peace to his mind.

Much of the sentiment in opposition to the execution was due to the increasing feeling in this country against capital punishment except for extreme cases of calmly premeditated murder. The belief seemed to be that Redburn was not a man who would slay another except under extreme provocation, that he had killed Carling in a fit of violent passion and that he regretted his crime after it was committed. Against all this, however, was the proven fact that, whatever the provocation might have been, he seemed to have acted with a vicious deliberation which put out of the question all plea of heat of passion. The sailor from whom Redburn borrowed the knife swore that it was fifteen minutes later before the stabbing was done. Even allowing that the knife had been borrowed for another purpose, though nothing of the kind was shown, Burns swore that from the time Carling went to the windlass until Redburn came out of the galley was about five minutes. Then too, it was shown that the murderer whetted the knife on the grindstone, after which he first threw hot water on the head of his victim and then stabbed him in the back. Altogether, on the face of the evidence, and so far as I have



talked with those who remember the case, there seem to have been no grounds in law on which there could be a commutation of the sentence.

Not a little of the sympathy for Redburn came from the ladies. They are prone to have romantic notions, derived from novels and nautical songs written by landsmen, in regard to imaginary sailors who are far from their homes and mothers. There was a belief too, by the public, that Redburn was the adventurous son of some high, if not noble, family. This idea, however, was less startling than one that Redburn was a native of St. John. It was believed by some that he was a member of a well known family, who had gone to sea when young and had not been heard of for many years. There were, indeed, two or three St. John boys who had thus disappeared, and who would be about Redburn's age at that time, but having been absent so long, and having changed in their appearance, the question of identification was not to be settled by merely seeing the prisoner. It seems pretty certain that he was not a Swede, or of any foreign nationality, and it is understood that he made a disclosure of his identity while in prison, but it was made to one who faithfully kept the secret. Whether Redburn the sailor was a stranger or a St. John man will never be known by the world. The various theories about him, however, will readily account for the remarkable interest shown in the man and the strong effort to save him in the face of the clearly established evidence of wilful murder.

An old resident of St. John tells of going to see Redburn, in company with Constable McGeaghey. The two looked through the wicket of the cell door and saw the condemned man reading a newspaper. The constable

took occasion to say to him that a man in his situation ought to be reading something better than a paper. "You be d——d, how do you know what may happen to me yet?" was Redburn's reply as he abruptly ended the interview.

The execution took place at the east end of the present jail building, which was then a new structure, having been occupied only about five years. The style of gallows used was one, I think, which had never been tried here before, and has never been used since. It was designed to be on the same principle as the apparatus which, in recent years, was in favor in New York and other cities of the United States. It was the weight and pulley style. From the east window of what is now the second story of the building, but was then the ground story, the ledge of rock having since been cut down, a stationary beam projected, at the outer and inner ends of which were pulleys through which the rope ran. At the end of the rope inside the building was a heavy weight, held in place until the proper moment, when its release and fall would instantly jerk upward the end which held the noose. This, it will be seen, was a different arrangement from the weighted lever, used in later years, though the theory was the same, and the arrangement itself essentially the same as a modern American method. In all these plans, the condemned is supposed to be jerked from the platform so violently that his neck will be dislocated. Where there is any blunder about the adjustment, he is simply strangled, and the thorough efficiency of the old-fashioned drop, properly calculated for the weight of the condemned, is incontestably demonstrated.

In the instance of Redburn, the blunder was in allow-

ing so very little slack to the rope that, instead of a sudden jerk and dislocation, there was simply a very rapid hoisting. The effect was much the same as in an execution at a yard-arm, which was possibly what a sailor might desire, whatever the public might think. It has, however, been said that this style of gallows was rigged to suit the wishes of the condemned man. He considered that the disgrace of being hanged would be less keenly felt by him if he were suspended as nearly as possible after the fashion in vogue on ships of war.

There was another thing in regard to this execution which, as a matter of sentiment, gives one an unpleasant feeling. Of all times of the year, the date fixed was in the holiday week, when the world was rejoicing over Christmas and its memories. Perhaps the judge felt that he could not in justice to the prisoner set the time any earlier, and it seems to have been the fashion to allow, in justice to the public, no more than a month between sentence and execution. Some years later, indeed, in Slavin's case, the time was just four weeks.

The morning of the 29th of December was bitterly cold, but this fact, of itself, would not have prevented a large concourse had not the sheriff, James White, kept the hour he had fixed a secret from the general public. The weather was too severe for many, except a determined few, to be on hand early, prepared to wait several hours, if needful; and as the sheriff had made his calculations to have as little delay as possible, the attendance of the curious was small, as compared with that at executions in previous years.

Redburn came out upon the temporary platform which had been laid upon the ground, wearing no coat, and having a checked sailor shirt. Attending him were

Revs. Robert Irvine (presbyterian), Samuel Robinson (baptist), and Alexander Stewart (episcopalian). The condemned man listened attentively to their words, and not only seemed perfectly calm, but proved that he was so in a very singular way.

The hangman, whose identity was concealed by a mask, was a small-sized fellow, who either from nervousness or stupidity, was unable to properly adjust the noose. Redburn perceived this, and turning to the keeper of the jail, quietly said :

"This man does not know how to fix it, Mr. Willis. I wish you would come and see to it."

Thereupon Mr. Willis stepped forward, and with the tears running from his cheeks, did the last grim office for the man for whose untimely end he felt such deep regret. A moment later, the signal was given, and the law had satisfied its claim for the murder of Patrick Carling.

This incident I have from an eye witness. Another witness of the execution says that, so severe was the cold, the fingers of the dead man were frozen stiff during the time the body remained suspended.

Redburn was the first person hanged at the new jail. Eleven years later he was followed by Slavin.

## BURGAN THE BURGLAR.

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The tradition of "the boy who was hanged for stealing a loaf of bread," in St. John, many years ago, has been widely accepted as true, and I once saw a mention of it in a leading United States paper, as an instance of the severity of the penal laws in former times. It is probable that thousands of people nearer home give credit to the same remarkable statement, and I have myself met many who believed it to be true. In some cases a fitting, and equally false, addition to the story is given to the effect that Judge Chipman's last days were embittered by remorse for his cruelty, that his deathbed was attended by singularly repulsive incidents, and that one of his dying requests was that he should be laid in his coffin with his face downward that his fellow men might not look upon him. In the same vein are stories of calamities that befel the jurors. How such extraordinary gossip ever gained currency and received credence is something difficult to understand, as Judge Chipman lived for nearly a quarter of a century after Burgan was hanged, dying at the age of 64, the chief justice of New Brunswick, and with no indication of feeling otherwise than that he had faithfully fulfilled the high trust so long reposed in him.

A less apocryphal version, and one which has been generally accepted, is that the "boy" was hanged for stealing a quarter of a dollar from the till of his master's shop. Even writers in the daily papers have at times

aided in the effort to blacken the memory of Judge Chipman by instancing his cruelty in condemning a boy to death for stealing this paltry sum. The ignorance of some of them in regard to the amount taken may be excusable on the assumption that they have been misled by a statement in Lawrence's "Footprints." Even then, however, a knowledge of the elementary principles of the administration of laws should have shown that were anybody to blame it was not Judge Chipman, but Governor Douglas, to whom, as Mr. Lawrence states, the petition for mercy was forwarded.

Every student of local history must feel deeply grateful for the great service rendered by Mr. Lawrence, in his lifetime, in the collection and preservation of data in regard to the early history of the city and province. Had it not been for his efforts, and for the impetus he gave to historical research by others, much that is now available must have been lost. Careful and conscientious as Mr. Lawrence was, "Footprints" is usually so accurate that the wonder becomes greater that he should have fallen into a grave error in regard to the crime of the noted "boy," Patrick Burgan. By what was undoubtedly an unintentional failure to state all the circumstances of the case, Mr. Lawrence has conveyed an impression wholly at variance with the facts.

It would be presumptuous to say this had I not taken time and trouble to ascertain the truth of the matter from the best available sources. These are, first the contemporary records, and next the statements of men who were living at the time, and of an age to be acquainted with the facts. Most of those with whom I have talked in past years have now passed away, but in every instance they were of the opinion that, as the law

then stood, Burgan was properly condemned and hanged. There is, however, yet living in St. John a well known citizen who distinctly remembers all the circumstances of the case and who was, moreover, well acquainted with Burgan and all parties concerned.

According to "Footprints," at the January term of oyer and terminer held at St. John in January, 1828, Judge Chipman presiding :

"Patrick Burgan, a boy of 18 years, was placed at the bar, charged with entering the dwelling, in the night, of his master, John B. Smith, manufacturer of ginger beer, corner of Union street and Drury lane, and robbing the till of one quarter of a dollar. He was arrested the day after by John McArthur, constable. \* \* \* As the evidence of guilt was clear, no other course was open to the jury than a verdict of guilty,—with this was a recommendation to mercy. Yet the judge, in sentencing the prisoner to be executed, told him there was no hope for mercy, and he should lose no time in preparing for death.

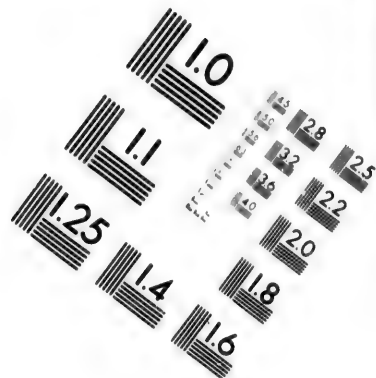
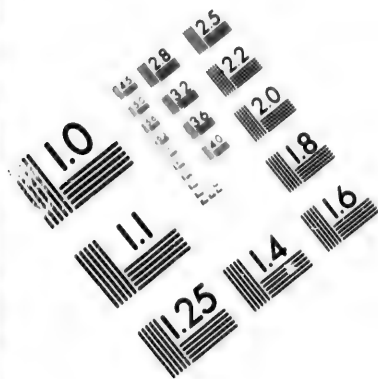
"A petition was sent to the lieutenant-governor, Sir Howard Douglas, asking the interposition of the prerogative in behalf of the prisoner. Yet notwithstanding the recommendation of the jury and the coronation oath of the sovereign, requiring "His Majesty to cause law and justice in mercy to be executed in all his judgments," the law was allowed to take its course."

The impression given by this account is that Burgan was very harshly treated for a very slight offence. He is spoken of as "a boy," though he was 18, and some say 19, years of age. The picture drawn represents this boy, to the ordinary imagination, as entering in the night the dwelling of his master, where he had a right to enter during the day, and taking from the till a paltry silver coin which he thought would never be missed, and which he wanted for some boyish pleasure, or as the story some-

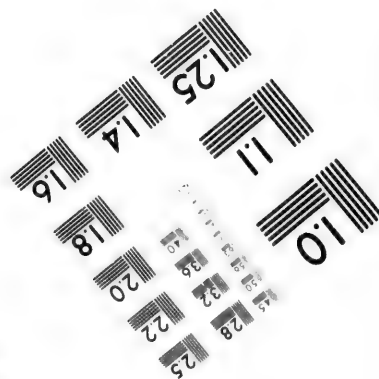
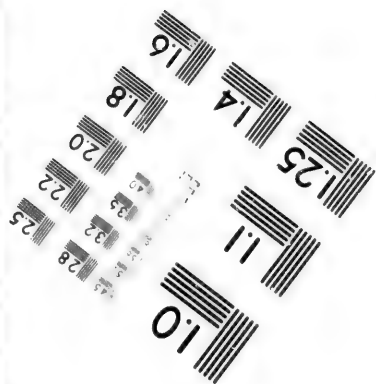
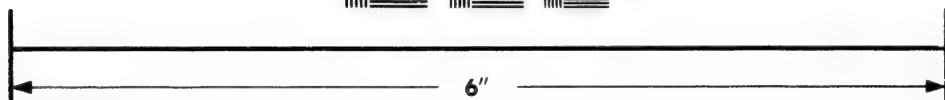
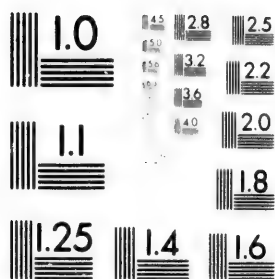
times goes, to buy bread to satisfy his hunger. The whole head and front of his offending seems to be an act differing in degree but not in kind from the abstracting of cake or candy from a shelf when the master's back was turned. That, I repeat, is the impression conveyed by this statement of the case. It was the impression I had until I took a notion to inquire further into the matter, and I find that the story has been generally accepted from the same point of view. So, too, when one reads simply that Burgan was arrested the next day, the supposition may be that he was either playing with his companions, or innocently engaged in the ordinary duties of his master's establishment. It is no wonder that so much sympathy has been wasted on "the boy who was hanged for stealing."

The newspapers of three-score and odd years ago did not pay much attention to local news, and, in most instances are found to be disappointingly brief in regard to occurrences which are now considered of historic importance. The idea seems to have been that as everybody knew what was happening in town, the columns could be better utilized by printing long extracts from English papers which were seen by only a limited number of people in this country. When local news was given, however, it was written with a scrupulous care as to facts, for if it were untrue the falsity would be at once recognized and the conservative minded subscriber would at once bring the editor to shame. In those days, a man with an axe to grind could not attempt to gain some end by handing a reporter a paragraph so totally untrue that the editor, in a subsequent issue, would be obliged to explain that the blunder was due to the loose way in which the paper was run. The paper





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came out once a week, and there was no rush of getting to press at a certain hour and minute. What was stated was published with a positive knowledge that it was true, and when there was the least doubt there was some such guarded phrase as "we are informed," or "it is stated." The newspapers are therefore to be considered good evidence of what actually happened, which is much more than can be said for some of their successors at the present day.

The Courier was the most reliable among the reliables in those times. Here is the account of Burgan's crime, as given in the issue of the 22nd of September, 1827. The Courier's account was copied in the next issue of the City Gazette, four days later, which is corroboration of its accuracy, because the Gazette editor, with a knowledge of the facts, gave the Courier's story in preference to writing his own version of it. This in those times, would be an indorsement of it as strictly accurate. The Courier says :

"Yesterday Patrick Burgan was apprehended on a charge of burglary and brought before Mr. Alderman Peters for examination.

"It appears that Burgan had lived as a servant man in the house of Mr. John B. Smith, at York Point, a year ago. That on the night previous to his being taken into custody he found means of entering Mr. Smith's house by one of the windows, and had succeeded in getting into the bedroom of Mr. and Mrs. S., between twelve and one o'clock. He secured a silver watch which was in the room, and afterwards rifled the pockets of Mr. and Mrs. S., in which were some money and the keys of the desk. On his getting hold of the latter, he began to make use of them, but the noise occasioned by his doing so awoke Mr. S., who immediately started from bed and seized the thief, but was unable to keep hold of

him. He escaped from Mr. Smith's house; but as if being detected in one crime only emboldened him to a repetition of it, he immediately entered the house of Mr. Coss, near that of Mr. Smith's, and stole from thence sundry articles of wearing apparel. The constable sent in search of him in the morning overtook him on his way towards the French Village. He was fully committed for trial."

This account put a very different construction on the affair. The "boy," in the first place, was considered a servant "man" a year before that time, and on this occasion was big enough and bold enough to successfully resist Mr. Smith when the latter grappled with him. He did not steal from the house of his master, but came back to the place where he had worked a year before, utilizing his knowledge of the premises to enter the house to commit a burglary. He did not tremblingly abstract a coin from the till and depart, but he coolly proceeded to rifle the pockets of a sleeping man and woman, and to help himself to the loose change he found there. Not satisfied with this he took the keys of the desk in order to make a haul of all the money Mr. Smith had in the house, and would have carried away all he could get, had not he bungled and made a noise. It was not through any good will on his part that he did not carry off everything of value he could lay his hands on. That he had started out to rob in earnest is further shown by the fact that when disappointed of getting all he wanted at Smith's, he lost no time in breaking into the house of Mr. Coss, where for lack of anything better, he carried off a quantity of wearing apparel. The next day he was caught, not a terror stricken boy but a lusty fugitive, making the best of his way to the French Village, doubtless in order to dispose of his plunder and get out of the

country. French Village was at what is now known as Nauwigewauk, in Kings county, and seems to have been the objective point of a number of the malefactors who used to flee from St. John to evade the demands of justice.

So much for the contemporary records of the crime of Patrick Burgan. Now for a living witness.

John R. Marshall, the late chief of police, now living in St. John, was a lad of 16 in the year 1823, and was well acquainted with the young man whom he knew as "Paddy" Burgan. Mr. Marshall's account of the burglary, the circumstances of which he very clearly remembers, agrees in all the essentials with the story told by the Courier. Still more, it is entirely independent of the latter, which he has never seen, unless possibly he read it in the paper at the time. He was surprised to find that I knew of the breaking into the house of Coss, as he had never seen that mentioned; and it is indeed a remarkable fact that this very important evidence of Burgan's criminal propensity seems to have been unknown to Mr. Lawrence and other writers. Mr. Marshall relates some additional facts which will be of interest.

The premises of John B. Smith were at the corner of Union street and Drury lane, on the west side of the latter, and he was known as "Ginger Beer Smith." This was not because some wit of that day construed the initials "J. B." to stand for "Ginger Beer," but because it was the custom of the time to distinguish men of the same patronymic by prefixing the name of their occupation. Thus it was that William Smith, the first man to introduce slop garments into St. John, about 1820, was known as "Ready-made Smith." The modern convenience of a hyphenated name was not then in vogue,

otherwise the beer man might have assumed the name of, possibly, J. Bolingbroke-Smith, while the clothing man, with equal propriety, could have handed his name down to posterity as Mr. W. Shoddy-Smith.

J. B. Smith owed his designation and his fame to a particularly good quality of ginger beer which he had made and sold, and often when John R. Marshall was passing, Paddy Burgan would call him in and treat him. The two thus became very well acquainted. Burgan was two or three years the elder of Marshall, and at the time of the burglary was a man as far as strength and stature were concerned. He was quiet and inoffensive in respect to disposition, and appeared to be the only one of his family in St. John, as Mr. Marshall does not remember that he had any known relatives.

Mr. Coss lived on Union Street, nearly opposite Smith's place, and kept a sailor's boarding house, on a part of the property now occupied by the works of the Consolidated Electric company. Burgan, therefore, merely crossed the street in his attempt to atone for the disappointment he felt at not being able to rob Mr. Smith as fully as he had intended. Mr. Marshall remembers that he took two pairs of boots from the house of Coss, and this would imply that he did not steal to supply his own needs, but to make something by disposing of the plunder. According to Mr. Marshall, Burgan stole at least three or four dollars' worth.

Thus it will be seen that the crime committed was no mere robbery of a till, but a breaking and entering at night, or a burglary in both the legal and popular sense of the term. Though the penalty has of late years been mitigated, burglary is even now a very serious offence, and is severely punished when the law is properly

enforced. In those days, while the penalties could be modified for petty larceny, such as the mere stealing of a quarter of a dollar would be of itself, burglary was punishable by death without benefit of clergy. Whether the law was a just one is not the question. It is enough to know that it was the law and that the duty of the courts and of the king's representative was to enforce it. In those days, in a community like St. John, when the first bank was a new institution, citizens were accustomed to keep their specie at their stores and houses, and it was necessary for the common good that an example should be made of any burglar whose guilt was clearly proven. The offence in Burgan's case was as great as if he had secured a thousand pounds. The amount he actually got was not in issue, and it would seem very clear that he had the intent and purpose to take all he could secure.

Burgan had a fair trial before a jury composed of good citizens, the names of some of whom are held in honorable memory to this day. They were John Cunningham, foreman; William Cormick, Amos Robertson, David Schurman, Gilbert T. Ray, M. J. Lowrey, William Stout, James Rankin, Isaac Flewelling, Nehemiah Vail, George Hutchinson, and William B. Cox. He had William B. Kinnear for his counsel, assigned to him by the court, and the prosecuting officer, John T. Murray, clerk of the crown, had merely to establish the undisputed facts in order to secure a conviction.

That the jury should recommend the prisoner to mercy meant no more than it means in many cases in these days. There was probably a desire that the young man should not be hanged, just as there may be now a reluctance to see the dread penalty inflicted on a murderer who

is undoubtedly guilty. Judge Chipman, however, did no more than prove himself a sound jurist when he told Burgan there was no hope for mercy and warned him to prepare for death. What else could he have said to a man who had rendered himself liable to the extreme penalty twice in the course of one night? It can be well understood that a petition for a commutation of the sentence was got up and forwarded to the governor. Burgan was young, and had previously borne a good character, and these facts would be sufficient to enlist sympathy without at all assuming an injustice in the sentence. I have known of a largely signed petition in more recent times when the object of sympathy was the perpetrator of a deliberately planned, inexcusable murder, and so it will be as long as men have hearts and capital punishment exists. Sir Howard Douglas did not bear the character of a hard-hearted or unjust man, and it may well be assumed that could he have exercised the prerogative consistently with his oath, he would have done so. As it was, the facts of the case precluded any interference.

There is another bit of history which has been overlooked by those who have helped create the current belief in regard to the case. In the Nova Scotian of the 13th of February, 1828, is an account, from the New Brunswick papers, of an attempt of this alleged martyr to secure his freedom by burning the St. John jail, after his trial and sentence. About 11 o'clock on Sunday night, the 3rd, the jailor, Mr. Nowlin, found the hall full of smoke, and on investigating found it coming from Burgan's cell, in the lower story. The prisoner had taken the wood left to keep him comfortable during the night, and placed it all at once on the fire. After it had



become sufficiently ignited, he took all the fire off the hearth and placed it, together with the blazing wood, against the wooden door of his cell, in order, he admitted, to burn a hole by which to escape.

Burgan was hanged on the 21st of February, 1828, at the old jail, which stood about where the registry office is now, on the top of the rock. The execution took place from a window of the second story, at the west end of the building, which would be a little in the rear of the present court house, then in course of construction. The trial had taken place in the old city hall on Market Square. The execution was witnessed by an immense crowd. According to Mr. Lawrence, the executioner was an Englishman named Blizzard Baine, a convict under imprisonment for robbery, who was rewarded with a pardon and ten pounds in cash, with which he left the city.

It is an unpleasant task to deal with the dead for the purpose of proving them more culpable than they have been thought to be. In the instance of Burgan, however, it is a duty not only in the interest of historical accuracy, but because an opprobrium wholly undeserved has been attached to the memories of Governor Douglas and Judge Chipman for their course in the matter. Both of these men may have done much that was wrong in their lives, but in Burgan's case they acted simply according to their oaths of office and in conformity with the law of England and her colonies, under which Burgan was fairly tried and condemned. Mr. Marshall tells that Judge Chipman felt very badly over the matter, but that he felt he had done no more than his duty. The judge is well remembered by many as a kind and charitable man.

Ginger Beer Smith died in 1832, and at the time of his death was proprietor of a licensed tavern on the east side of King square, not far from the scene of Burgan's execution.

About eleven years ago, when the workmen were excavating for the foundations of St. Peter's church, North End, a number of coffins were taken up from the old graveyard which was the site of the edifice. Among them was a small one bearing the initials "P. B." Some of the local antiquaries, assuming that the letters must stand for "Patrick Burgan," had, I believe, a learned discussion in some of the newspapers. As a matter of fact, Burgan's grave was not there, nor in any other burying ground. The body was interred somewhere outside the city limits, but Mr. Marshall is not quite sure whether it was in the neighborhood of Mount Pleasant or Courtenay Bay, but thinks it was the latter. If the coffin could be discovered, it would be found to be that of a full grown man.

To find an undoubted judicial murder in New Brunswick one must go back beyond the time of Burgan. That there was at least one such in St. John is established on undoubted oral testimony, though I have neither the date nor the name of the victim. The fact that he was a negro, and that hanging was common in those days, may account for the lack of data, but I fear there is no doubt as to the fact.

In the case in question a man saw a barrel of pork in front of a store door, and watching his chance when the owner was absent, rolled it away a short distance. Whether the thief owned a Nova Scotia schooner, an up river wood-boat, or was a citizen of Carleton with a boat, does not appear, but he was anxious to get the stolen

article to the wharf without risk to himself. A colored man, on the lookout for a job, and knowing nothing of the circumstances, readily undertook to roll the barrel down the hill, and was doing so when he was apprehended as the thief, the other man having, of course, disappeared. The negro's story was not credited, the proof of his guilt seemed clear, and he was sentenced to death. The luckless wretch does not seem to have understood matters fully until he was brought out to be hanged, but when that happened he began to protest in earnest. Grey with terror, his eyes wide open and rolling with astonishment and fear, he turned to those who were adjusting the noose, loudly exclaiming, "Whatu gwine to hang me foh? I aint done nuffin!" And so he continued to remonstrate until the rope cut short his speech and he was left kicking in the air, a victim of circumstantial evidence. His lot was a good deal harder than that of Paddy Burgan.

## THE TILTON MURDER.

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One Sunday afternoon in the summer of 1862, some boys were passing the time at the foot of King street, east, between Pitt and Crown streets, St. John. While amusing themselves with such facilities as offered, they observed what seemed to be the end of a piece of old board protruding from the ground at a place where the surface of the street had been somewhat worn and washed away. Prompted by a spirit of curiosity or mischief, they pried up the board, when they were surprised and alarmed to find what were evidently the remains of a coffin, containing human bones. A number of people who were attracted to the spot a little later, continued the investigation and were rewarded by finding, close by, what was left of another coffin, with some more bones. There were also some fragments of red cloth and some brass buttons, evidently of military uniform, but so much oxidized that the devices and descriptions on them could not be deciphered. Diligent search then and afterwards failed to disclose any other remains in the vicinity, nor was there any record that the place had ever been used as a burial ground.

A number of more or less plausible theories were advanced at the time, chiefly inclining to the view that there had been hasty burials there during the prevalence of some epidemic in the early history of the city. This idea was combatted however, by the fact that the Old Burial Ground, the regular place of interment, was so

near at hand. No satisfactory conclusion was reached by the public, and in a short time the occurrence passed from the minds of the majority of the citizens.

There can be no doubt that the remains thus found were those of Henry Baldwin and James Lannon, two soldiers of the 101st regiment, who were hanged on the 23rd day of November, 1808, for the murder of Clayton Tilton. Tilton was the proprietor of the Musquash hotel which stood on the same site as the present hotel, close to the Shore Line railway station. The house continued in the hands of the Tilton family for about half a century later. Baldwin and Lannon were deserters, whom Tilton and others attempted to stop on their way out of the country. The men were hanged at what is now the foot of King street, east, but was then the bottom of the eastward slope of the Block House hill. In accordance with the custom of the time, they were buried at the foot of the gallows.

Less than four years ago, the late Henry Melick, then in his 96th year, told me that he was present at the execution, being then a boy twelve years old, and that the event was the first he could remember as having made a vivid impression on his mind.

Baldwin and Lannon, together with Patrick McEvoy, a youth of 18 or 19, deserted from the barracks at Fort Howe, on the 17th of October, 1808, wearing a portion of their uniforms, and Baldwin also carried away a musket. They crossed the river St. John at night, in a small boat, landing on the other side some distance above Pleasant Point, and thence making their way through the woods, they reached the St. Andrews road. A party from the barracks was sent in search of them, but failed to find them, as was to be expected from the fact

that houses on the road between St. John and Musquash were few and far between. The deserters could easily conceal themselves in the woods by day to avoid their pursuers and follow the road by night. So far as there is any thing to show, they did not risk their safety by approaching anybody until they reached Musquash, when, being in doubt about the course they would take, they called at the house of Ebenezer Scott. This was situated about 200 yards beyond the hotel, on the rise of what is known as Clinch's hill, and I am not sure but that at least a part of the same house is still standing. The story of what followed is pretty fully told in the notes taken by the judge at their trial, a manuscript copy of which I have been able to inspect through the courtesy of Mr. Clarence Ward.

Calling at the house, they asked to be directed on the way to Dippo\* Harbor. Scott was away, but his servant, Burditt, gave them the proper direction, which was to keep on their way until they crossed the river, a short distance beyond which they were to take the road which turned to the left. It seems to have been the intention of the men to reach the coast at this point in the hope of finding a boat to take them to Eastport. This would be a much safer plan than an attempt to reach the border by the highway, to say nothing of saving the weary journey on foot.

Burditt readily recognized the men as deserters, and after they had gone he thought it would be a good idea to inform Mr. Tilton. It may be that in doing this he was actuated by a desire to do his duty as a loyal subject, and it may be also that he was not unmindful of the reward which would be paid in event of a capture.

On hearing the story of Burditt, Mr. Tilton accompa-

nied him to the house of Scott, where he got two guns, one of which he handed to Burditt, retaining the other for himself. Tilton's servant, Frederick Shrum, also became one of the party, and they started in pursuit of the deserters.

They did not succeed in tracing them, however, and started to return. On their way they met Lannon, who sat down as if to rest, and was presently joined by his two companions. Baldwin stepped up to Tilton and asked him if he knew the way to Dippo Harbor.

"I do," was the reply, "but you shall not go there."

"Is it your custom to stop people on the highway?" interposed Lannon.

"No," replied Tilton, "but I will not suffer such men as you to go on."

At this juncture Tilton and Burditt, who had been carrying their muskets, put the breeches of them to the ground. Thereupon Lannon pulled a pistol from his breast, and cocked it. Baldwin, carrying the musket he had taken from the barracks, had gone away a little distance.

"Harry, come back," shouted Lannon, "these men will fire on us."

"Mr. Tilton, that man is going to fire," exclaimed Burditt. "See, he is pulling out his pistol."

At this Tilton stepped up to Lannon and said, "There shall be no firing here;" and Burditt added, "We are not going to fire—we are not prepared for firing." On hearing this Baldwin came back, close to Tilton, and snapped his gun at him, but it missed fire. Then the

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\*In many old manuscripts the spelling is "Dippo" instead of "Dipper" Harbor as now known. The present name is possibly a corruption of some Indian word.

deserters proceeded to walk away, and the affair would have ended had the other party likewise retired. Tilton had no idea of allowing them to get away so easily, but followed them and said, "You need not think I am afraid of you, for your gun is not loaded."

"Harry, let him know that you are loaded," exclaimed Lannon.

Baldwin retired a few paces from Tilton, and said, "Sir, I will let you know that I am loaded," levelled his musket and fired, giving Tilton a wound from the effects of which he died in a few hours.

After firing this shot, Baldwin went back and reloaded his musket, Lannon assisting. While thus engaged they told McEvoy to pick up the gun Tilton had dropped, and he did so in a mechanical way, being dazed at what had taken place.

The three deserters then pursued their way without further molestation, but were captured, some days later, on one of the islands in Passamaquoddy Bay, by a party of the Charlotte county military force. They were brought to St. John and tried on the 15th of November, before John Saunders, judge, and William Pagan and Munson Jarvis, magistrates. On the trial, the solicitor general, Ward Chipman, showed that Mr. Tilton was not only justified in trying to stop the fugitives, but that it was his duty to do so, desertion in the time of war being by statute law a felony without benefit of clergy. The court agreed with this contention.

The prisoners were found guilty and sentenced to death, but an exception was made as to McEvoy, not only on account of his youth but because he had no hand in shooting, and had picked up the gun only because he was told to do so, and without any volition on his



part. He was respited until the king's pleasure should be known in regard to him, and was eventually pardoned.

Baldwin and Lannon were hanged on the 23rd of November, just one month after the shooting. There were few lawyers in those days and the ways of justice were equally sure and swift. It is a pity these qualities were not displayed at the execution itself, which was so badly bungled as to horrify the large crowd which had gathered.

The march from the jail to the gallows, over what is now King street, east, was remarkable from the fact that Stephen Humbert, a well known Loyalist citizen, marched between the condemned men singing methodist hymns. When the execution was attempted, both ropes broke, and the unfortunate men were kept standing there until a messenger went to the south wharf, procured a sufficiently strong piece of hemp and returned, after which the killers of Tilton were done to death in due form of law.

Buried at the foot of the gallows, for more than half a century their bones rested undisturbed. The city grew apace, the Block House hill gave way to streets, a new generation came, and year after year the unknown graves were trodden over by those who had never so much as heard of the crime and the fate of Baldwin and Lannon.

THE END.

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